

A
Guide to
Best Practices
for

Cost Reimbursement Contracts

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***A Guide to Best Practices* for Cost Reimbursement Contracts**

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COST REIMBURSEMENT CONTRACTS

BEST PRACTICES GUIDE

PURPOSE: The purpose of this guide is twofold.

First, to establish *Best Practices* for the administration of cost reimbursement contracts. These practices are intended to improve the management and administration of cost reimbursement contracts which, in turn, will result in excellence in contractor performance, responsiveness to customers, and in best value to taxpayers through timely delivery of goods and services at a reasonable cost.

Second, to serve as a resource for instructional purposes for those participating in the Army Corps of Engineers PROSPECT course, contract administration workshops, and local Army Corps of Engineers offices. The best practices apply to both construction and services contracts unless otherwise noted.

SCOPE: This guide applies to Cost Reimbursement Contracts and includes Cost Plus Fixed Fee, Cost Plus Award Fee, Cost Plus Incentive Fee, and Time and Material contracts. The guide applies to Term, Completion, and Indefinite Delivery Indefinite Quantity (Task Order) types of contracts.

GUIDE STRUCTURE: This guide is divided into two areas:

- General Information on cost reimbursement contracts, covering the definition and types of cost contracts, and providing comparisons between cost and fixed price contracts.
- ***Best Practices*** of cost reimbursement contract administration, where concerns are identified and best practices are presented. This area is presented by topics, see The Table of Contents for a topical listing.

At the end of each topic, a matrix of concerns with best practices is provided.

This ***Best Practices Guide*** is available for download from the U.S. Army Corps of Engineers' HTRW-Center of Expertise internet site in **Adobe Acrobat**® file format. The availability for download will provide the widest possible exposure and allow for periodic updates. The web address for download is: <http://www.environmental.usace.army.mil/>

COMMENTS: Users are encouraged to provide input on this guide. Input and suggestions will be evaluated periodically and the version available for download from the internet site revised. Comments may be directed to Thomas Pfeffer, HTRW-Center of Expertise, at email address: thomas.f.pfeffer@usace.army.mil, or to the Web Coordinator at the site referenced above.

It is not the intent of the Guide to supersede any law, Government regulation or HQUSACE written policy guidance and where there is a conflict the law, regulation and/or written HQUSACE policy shall govern.

SECTION I: COST REIMBURSEMENT CONTRACTS, GENERAL

THE COST REIMBURSEMENT CONTRACT

Cost reimbursement types of contracts provide for reimbursement to the contractor of all incurred allowable, allocable, and reasonable costs to the extent prescribed or provided by the contract. Cost reimbursement contracts establish an estimate of total costs for the purpose of obligating funds and establishing a ceiling that the Contractor may not exceed, except at its own risk, without the approval of the Contracting Officer (**FAR 16.301-1**). Fee, if any, is also included in the contract cost as a separate payment item. However, the establishment of a cost limit or ceiling is not to say that the Contractor must complete all of the work described in the contract if incurred costs exceed the ceiling limit. It simply means that when the Contractor reaches the extent of the funds available, work must stop and any work performed beyond funds available, as stated by the contract, is then at the Contractor's risk. (**FAR 52.232-20 LIMITATION OF COSTS AND FAR 52.232-22 LIMITATION OF FUNDS**)

FAR 16.301-1, 16.301-2, and 16.301-3 provide guidance on the appropriate use and limitations for use of cost-reimbursement contracts.

TYPES OF COST REIMBURSEMENT CONTRACTS IN GENERAL USE BY THE U.S. ARMY CORPS OF ENGINEERS

The U.S. Army Corps of Engineers first made substantial use of cost reimbursement contracts during World War I. The contract type used was cost-plus-percentage-of-cost (CPPC). This allowed the fee to be paid as a percentage of incurred cost. This fee arrangement actually provides an incentive for the contractor to overspend because as total costs would grow higher, so would the fee. As a result of this experience, Congress prohibited the use of this contract. Because of this prohibition, it is important that amount of fee be determined independently from actual cost incurred. The types of cost reimbursement contracts in use today provide for such independent calculations.

The following listing describes the four types of cost reimbursement contracts presently authorized

1. **Cost Plus Fixed Fee (CPFF)**: The components of a CPFF contract are *allowable costs* and a predetermined *fixed fee*. The fee is determined by developing an estimated total contract cost (exclusive of fee) and applying a reasonable percentage to calculate a fee pool. Once the fee is calculated, it becomes an independent sum of money, which the contractor is entitled to receive, after full and satisfactory performance of the work. The fee pool changes only with termination of the contract or a fee bearing contract modification to the scope of the contract. The maximum fee allowable is 10% of the estimated contract cost (unless it is an R&D type contract), however, the actual percentage is determined either by negotiation or through the competitive contract selection process using a percentage proposed by the contractor.
2. **Cost Plus Award Fee (CPAF)**: The components of the CPAF are *allowable costs*, a predetermined *base fee pool*, and an *award fee pool*. The *base fee pool* is calculated in the same manner as the *fixed fee* described above, except that the *base fee pool* can be between zero and 3% (maximum) on contracts

awarded prior to the rewrite of FAR 15. The rewrite, which was effective on January 1, 1998, removed limitations on fee for CPAF and CPIF contracts. The *award fee pool* is also calculated by taking a percentage of the total estimated cost. The contractor's performance is monitored and a subjective evaluation is made on a periodic basis. Through this evaluation a determination is made by the fee determining official (FDO) on the amount of the *award fee pool* to be paid to the contractor in addition to the *base fee*. The determination is not subject to the Disputes Clause of the contract. Contracts awarded prior to the FAR 15 rewrite had a maximum total fee for CPAF of 10%. The actual percentage used for *base fee* and *award fee* calculations are also determined by negotiation or from the competitive selection process.

3. **Cost Plus Incentive Fee (CPIF):** The components of a CPIF are *allowable costs*, a *target objective*, a *target fee*, a *maximum fee*, a *minimum fee*, and a *fee formula*. Fee paid to the contractor for this type contract is determined on an objective basis and is used to incentivize measurable objectives of performance. For example, to incentivize cost, a target cost is established with a corresponding fee. If the contractor completes work under target then additional fee is paid. If the cost target is exceeded, a lower fee is paid. An objective formula is used to establish the exact fee in either case. The contract can incentivize any one or measurable aspects of performance, such as schedule, production, safety, quality, etc. However, cost performance is always a required evaluation factor.

4. **Time and Materials (T&M):** A T&M contract is a cost reimbursable contract to the extent that all allowable costs for equipment, materials, and travel are reimbursable. However, payment of labor is based on a previously agreed to unit rate for each labor category. The labor unit rate, which is proposed by the contractor, includes all overhead and fee. Close control of this type contract is required as the more labor used, the more fee the contractor receives. Efficiency, or labor productivity, is the biggest management problem in T&M contracts. Therefore, it is critical that the government closely supervise this type of contracts.

See the *Cost-Reimbursement Construction Contracts (CRCC) Guide*, Section 2, for history, application, advantages, and limitations, of each of these contract types.

Each of the above contract types can be *completion form* or *term form*. *Completion form* requires a scope of work that establishes definite goals, or a target, and an end product. *Term* contracts establish a scope of work and require a level of effort for a stated time period. For construction and engineering services, the completion form is preferred. See **FAR 16.306(d)** for further discussion.

COMPARISONS BETWEEN COST REIMBURSEMENT CONTRACTS AND FIXED PRICE CONTRACTS

Significant differences exist between cost reimbursement and fixed price contracts. Because of these differences, a different management approach is required. It is important to understand these differences to establish techniques and tools to effectively manage and control the contract.

1. **Best Effort vs. Complete and Usable Product:** Unlike fixed price contracts, a complete and usable product is not a contract requirement. In cost reimbursement completion contracts, it is the established goal, but achievement of that goal is dependent on issues outside the contract. What the contractor is

required to give is a “best effort” in achieving the goal. What the government owes the contractor is all allowable costs for the contractor’s best effort to achieve the goal, plus a pre-established fee.

2. **Cost vs. Price:** As stated above, the contractor is reimbursed all allowable costs. Allowable *costs* are those allowed by **FAR PART 31**, and which are reasonable and allocable. Although compliance with FAR part 31 is factual, the test of reasonableness and allocability is somewhat judgmental. Agreements with the contractor regarding reasonableness and allocability of cost are necessary prior to costs being incurred. *Price* includes a profit factor and implies a fair market value of the product or services. During a cost reimbursement contract, the government may or may not receive a product or service at a fair market value (*price*), but must pay incurred costs.

3. **Public Vouchers vs. Pay Estimates:** Payment to the contractor is substantially different under cost reimbursement contracts. With fixed price contracts, a monthly estimate is made of the percentage of contract completion and the contractor is paid a similar portion of the contract price. This payment would include any proportional profit on the completed work, again, based on the contract price. Following the Prompt Payment Act, the contractor is then required to pay his subcontractor within 7 days of receipt of payment, see **FAR 52.232-27**. The payment is processed with a *Payment Estimate* form. With cost reimbursement, payment is processed with a *public voucher*, with copies of contractor paid invoices included. A large business contractor is required to pay his subcontractors before submitting an invoice. Only allowable costs are reimbursed, but interim payments are reimbursed regardless of the proportional amount of total of work completed. Fee is itemized separately. The Prompt Payment Act (PPA) applies to cost-reimbursement contracts, but interest penalty payments are not made to the contractor as the result of delayed contract financing payments. In this sense, “interim payments” are considered “contract financing payments” as discussed in **FAR 32.907-2**. Because the contractor is required to pay subcontractors and suppliers prior to submitting the public voucher, interest will accrue to the contractor on the funds used but this interest is not reimbursable. To reduce this business burden, the government should expedite the payment process.

4. **Government Risk vs. Contractor s Risk:** In fixed price contracting, the contractor is assigned the cost, schedule and quality risk. The government only requires the specified work of the contract and the contractor’s profit depends on its ability to produce those requirements. In cost reimbursement contracting, the risk of those three objectives shifts to the government. Cost, schedule, and quality are not guaranteed by the contractor, only a *best effort* to try to achieve them. It is therefore important that the government become involved in the total project management process to assure success and to limit government risk. This requires direct management approach vs. the typical indirect approach used in fixed price contracts.

5. **Fee vs. Profit:** The terms *fee* and *profit* are often used interchangeably, but they are not the same. *Profit* is the money that remains with the contractor after all bills have been paid. *Fee* is the sum paid by the government in addition to allowable costs. These are not the same because the contractor incurs costs, which are not considered allowable by the government but are necessary for business. One such cost is *interest on money*, as described above under the payment process. In fixed price contracts, profit can range from high, to low, to loss, depending on the competition, efficiency and luck of the contractor. In a cost reimbursement contract, the fee range is generally fixed. The contractor can influence the amount of his fee by his performance, good or poor.

6. **Management Challenges:** In selecting the use of a cost reimbursement contract, Corps personnel should be aware of three (3) specific management functions that will require increased attention during the

administration of the contract. Knowledge of these management challenges will provide time for the development of responsive plans and procedures prior to award of the contract. These challenges are:

(A) Managing the Contract Technical Baseline: The summation of all contract technical requirements from the request for proposal, specifications, drawings, etc., is generally known as the *contract technical baseline*. In firm-fixed price contracting, the technical baseline normally consists of the specifications and drawings issued to the contractor. However, in many cost contracting situations, details for the required scope of work (technical baseline) are not known at the beginning of a project. Nevertheless, as the project unfolds under a cost contract, and investigations, work plans, and specifications are developed and approved, the definitive scope of work that is to be accomplished will eventually need to be communicated to the contractor. The government team faces the challenge of providing extensive technical details on the scope of required performance to the contractor after the contract has been awarded and after a notice to proceed has been issued. This situation suggests that the government administration team must have a thorough understanding of the orderly methods that will be used to accomplish this information transfer, inserting the information and requirements into the contract scope, together with the relationship of these information transfer activities to the contractual actions of *technical directions, and change orders*. The process of adding and controlling the information that is given to the contractor during the process of contract performance is often referred to *management of the contract technical baseline*. On cost contracts, this effort will be far in excess of technical baseline management efforts encountered in fixed price contracts.

(B) Management of the Contract Cost and Schedule Baseline: The contractually established cost and time of performance is referred to as the *cost and schedule baseline*. If a work element has been added to the technical baseline, corresponding elements should exist in the cost and schedule baseline. As a cost reimbursement contract proceeds, and as the government team provides more and more definitive technical information to the contractor regarding the details of the scope of work to be accomplished, the contract cost and schedule baseline will be questioned and, more often, increased or extended. Under cost reimbursement contracts, the government team can not assume that government liability for cost and time will be unchanged until a contract modification has been issued. Consequently, the contract administration team should be proactive in the investigation and management of all activities that occur under the contract that may change the cost or time of performance and an active plan for management of the cost and schedule baseline should be created and implemented. Just as the technical baseline will be constantly revised, the cost and schedule baseline should be as frequently evaluated, with the necessary changes or revisions incorporated promptly.

(C) Working with Cost Reimbursement Contract Clients: The process of evaluating technical information that becomes available during the performance of a cost reimbursement contract, and the decision to formally add such information to the contract or issue direction to the contractor, may require extensive interface with a contract sponsor, client or owner. Sometimes, the client may be a State environmental regulator, well detached from any direct contracting agency relationship. In fixed price construction, the contract administrator may be able to rely on design guides, standard practice, or other established methods to make objective decisions on similar technical matters. However, the nature of cost contracts may require a more “subjective” determination, one that is to be made by or driven by the project client or sponsor. In many past examples, project sponsors have played dominant roles in the technical decision making process and, as a result, have been primary forces behind extensive technical, cost, and schedule baseline growth.

This situation suggests that the Corps management team be prepared to work closely with the project client or sponsor, integrating them into the contract management team. The sponsor should understand that all technical decisions impact cost. Quality, cost, and schedule performance are linked together. An organizational element or team should be established to assist in the evaluation of all directions given to the contractor, before such directions are given, so that the project sponsor can understand the impact that technical decisions will have on the contract baseline. If possible, the project sponsor can then be included in the management of contract funding, serving as an advocate in the event that additional program funds are needed, or in providing the justification for what may appear to be “added work”. Experience has demonstrated that the management technique known as “partnering” can be most useful in uniting both the government teams and the government-contractor relationship.

For more information on this subject, refer to **Cost-Reimbursement Construction Contracts (CRCC) Guide**, Section 3.

THE NATURE AND BUSINESS ENVIRONMENT OF COST REIMBURSEMENT CONTRACTS

A cost reimbursement contract is normally selected because it is the best and most economical method to complete the required work under the circumstances. Economical does not necessarily equate to the lowest initial cost or price, but includes consideration of time, unknown conditions, completeness of design, and outside interference. While most contracts executed by the Army Corps of Engineers are of the firm fixed-price (FFP) type, FFP contracts require a well defined scope of work expressed through relatively complete plans and specifications. It is frequently the lack of definitive scope and the lack of complete plans and specifications that result in the decision by the Corps to use a cost reimbursement contract.

Having awarded a cost contract, the government team must then cooperate closely with the contractor, providing the necessary direction on the work to be performed. The attitude of close cooperation, and the nature of the cost reimbursement contract, creates a business environment that may be quite different than that experienced on fixed price projects. The nature of cost reimbursement contracts may involve some of the following:

- Performance Specifications/Requirements vs. Detailed Design Specifications.
- Closer Cooperation within the government on Design, Construction, and Contracting.
- Intense involvement of the customer or owner in the continuous process of defining the required scope of work and in establishing priorities between quality, cost, and schedule trade-off's.
- Environmental Regulatory Agencies as the primary “customer” (that is, the entity that establishes mandatory project requirements).
- Direct involvement of contracting agency personnel in the contractor's management practices and the means and methods of contract performance.

- Synergy and increased cooperation between all parties: contractor, contracting agency, and regulator/customer.

While Firm Fixed Price contracting may remain as the preferred method for accomplishing construction projects, the cost reimbursement contract is the best method if the scope of work can not be clearly defined. Successful execution of cost contracts avoids the “arms-length” relationships of FFP projects and encourages close cooperation by all parties.

SECTION II

BEST PRACTICES OF COST REIMBURSEMENT CONTRACTING

THE NATURE AND BUSINESS ENVIRONMENT OF COST REIMBURSEMENT CONTRACTS

CONCERNS	BEST PRACTICES
<i>Limiting the assumption of risk, or controlling risk to the government in cost reimbursement contracts.</i>	<p><i>Recognize and manage the risk inherent in cost reimbursement contracts.</i></p> <p>a. Recognize and accept that in a cost reimbursement contract the government does assume almost all of the risk -- plan to manage it!</p> <p>b. Select a contract type that provides the greatest contractor motivation while reducing risk to the government. Cost plus Award Fee with a tailored Award Fee Plan allows the government to outline incentives for the contractor. Cost plus a fixed fee may result in a lower total fee but with little financial incentive to control costs.</p> <p>c. Provide assertive management practices that will reduce the total risk, for example:</p> <p style="padding-left: 40px;">(1) Use of fixed price subcontracting by the prime contractor may limit cost risk.</p> <p style="padding-left: 40px;">(2) Divide the total contract/project into smaller pieces using task orders or by application of the Work Authorization Document (WAD) system. Use of the WAD system is highly recommended as a means to recognize and control costs.</p> <p style="padding-left: 40px;">(3) Assure effective cost performance by using "Earned Value" techniques to evaluate monthly progress. See Best Practice section on Controlling Contractor Costs for more information on "Earned Value".</p> <p style="padding-left: 40px;">(4) Apply conventional scheduling techniques to assure work on all deliverables remains on schedule and use the schedule to control resources to "just in time" delivery.</p>
<i>Maintaining typical arms-length business associations similar to the environment of fixed price contracting.</i>	<p><i>Combine government and contractor resources wherever possible to maximize performance and reduce the total manpower requirement for the project. Some examples include:</i></p> <p>a. Shop Drawings: Maintain a single register that provides the status of all submittals. Develop "over-the-shoulder" review methods that assure all submittals generated are acceptable and approved as early as possible.</p>

CONCERNS	BEST PRACTICES
	<p>b. Project Schedule: Maintain a joint project schedule utilizing common software. Share all schedule information including projections. Jointly develop fragmentary networks to determine potential savings from alternative approaches to planned tasks. Integrate scheduling decisions with possible changes to quality and schedule requirements.</p> <p>c. Quality Assurance: Develop performance procedures that allow step-by-step verification and acceptance so that the risk of rejecting finished work is minimized.</p> <p>d. Cost records: The contractor should be totally responsible for the development and maintenance of cost records and reports with the government assuming the role of manager and evaluator of trends. These records must be kept current.</p> <p>e. Contracting: The contractor is responsible for procurement of subcontracts, labor, equipment and material for the project and will develop plans and procedures. Maintain original documents and records by the contractor and avoid duplicate copies being made for or filed by the government.</p> <p>f. Management Information Systems (MIS): The contractor will implement and maintain a MIS that can be accessed by both the government and contractor. The MIS can be the source of most project information.</p>
<p><i>A cost-reimbursement contract may appear to lack structure in comparison to a fixed priced contract in that the scope of work, or task orders, and their accompanying plans and specifications have not been totally developed or are incomplete.</i></p>	<p><i>Manage the portions that are defined while continuing to develop the technical scope for undefined work that remains.</i></p> <p>a. Focus management efforts on the development of the plans and procedures for each step of work, assuring that each step is sufficiently defined before authorization for the work is given.</p> <p>b. Manage the project in view of the technical performance required for each piece of work rather than achievement of “all of the plans and specifications”, or completing the contract based upon specification wording. If a project requirement is redundant or unnecessary, eliminate it. Alternatively, if additional work is needed to achieve quality or regulatory requirements, give direction to increase effort or scope.</p> <p>c. Continuously evaluate the work to be performed against the various goals of the government. Government goals typically include quality, cost, and schedule. Make adjustments so the contracting goals, not simply the words of the specifications, are being achieved. For example, a schedule goal may be “to finish on the date specified” or it could be to “finish as soon as it is possible to do so within the budget”. This example conveys the idea that the budget is more important than schedule and the schedule could slip if necessary to remain within cost targets.</p> <p>d. All government entities involved in the cost reimbursement task order</p>

CONCERNS	BEST PRACTICES
	<p>(engineering, project management, construction, contracting, etc.) need to work in close contact with the Contractor to effectively develop the undefined portions of the work. However, in a team setting, the contractor needs to get direction from a unified COR/Contracting Officer source.</p> <p>Develop the WBS, using both the known project requirements and technical assumptions, thereby developing an initial detailed structure for project execution. This initial WBS can then become the technical baseline by which project objectives and customer expectations are managed, as well as the baseline in which changes in technical direction, cost and schedule are measured and analyzed.</p>
<p><i>Initiating performance of work on a segment of the project, or task order, prior to finalization of plans, specifications, or procedures.</i></p>	<p><i>The Work Under a Cost Reimbursement Contract is Actually Best Controlled When Managed in Definable Segments.</i></p> <p>a. Initiating performance prior to complete definitization may be necessary. Select methods to subdivide the project into definable features of work and authorize starting work on those features that can be defined.</p> <p>b. Use the Work Authorization Document and/or Contract Management Procedures to control the resources assigned to the project. Manage the flow of resources against the defined and authorized work available.</p> <p>c. Early start of work can result in a “fast-track” approach to the schedule as plans for later phases of work are being developed concurrently with actual work on initial phases. Optimization of schedule can result in the lowest total project cost if resources are properly planned and managed.</p>
<p><i>Motivating the contractor on a cost contract</i></p>	<p>Understand the goals and objectives of the contractor so that motivational efforts are effective. Most contractors are interested in the following:</p> <p>a. Profit: Although the total available fee may be limited on a cost contract, the contractor can realize a greater portion of profit by avoiding non-reimbursable costs and reducing interest charges. It is motivational to the contractor for the government team to assist in maximization of profit from the available fee through expedited voucher processing and good management that eliminates the need to deny reimbursement of costs.</p> <p>While not increasing the total fee, a contractor can improve the apparent profit percentage by performing the work at a total cost lower than the target cost. For example, on an estimated \$1 mil CPFF contract a 10% fee generates a fee pool of \$100 K. If the contractor earns a \$100 K fee, but can perform the work for \$950 K, the rate of return is 10.5%. This statistical gain can be very motivational for personnel and project managers competing against other similar contractors and managers and may help them strive for a lower total cost.</p>

CONCERNS	BEST PRACTICES
	<p>b. <u>Potential for future business:</u> Contractors can be motivated by understanding the value of good performance on the present project as a reference for future competitive selection. Many contract selection actions are heavily weighted to past performance evaluations.</p> <p>c. <u>Pride and reputation:</u> Contractors are motivated by reputation. It is beneficial to include the name(s) of the contractor and contractor personnel in public information briefings and press releases. Having their name associated with an important government project, national defense, or environmental clean-up is very beneficial to contractors.</p> <p>d. <u>Experience:</u> Contracting firms grow with experience, and many are motivated by the opportunity to participate in present or future government contracts, cost reimbursements contracts, environmental remediation, or other significant or unique projects.</p> <p>e. <u>Multiple Award Contracts:</u> Multiple award contracts are being used for task order type contracts. This allows for several awards for the same services and the government has the choice of contractors to use on any one task order. The choice is made based on cost and other factors such as performance on ongoing work on the contract. This “competition” incentivizes the Contractor to perform better than the competing contractors.</p>

COORDINATION WITH OTHER AGENCIES FOR ADMINISTRATION OF COST REIMBURSEMENT CONTRACTS

CONCERNS	BEST PRACTICES
<p><i>Identification of agencies for coordination of receipt of contract goods and services.</i></p>	<p><i>Identify and coordinate with all agencies that expect to participate in the contract through the receipt of goods or services.</i></p> <p>Cost reimbursement contracts may provide services to customers outside of the Corps Resident Office, Area Office, District or Division. Some contracts also provide services to agencies outside of the Army (e.g., Air Force) and outside of The Department of Defense (e.g., EPA). Outside agency (customer) representatives may be involved in contract oversight, validation and administration. A Memorandum of Agreement (MOA) should be developed and signed by all stakeholders to establish the authorities and responsibilities of agencies and personnel assigned. This should be accompanied by a narrative listing of all of the offices or points of contact, with each stipulating the areas of responsibility. Any authority delegations should be performed in writing. Specific topics recommended for consideration are the following:</p> <ul style="list-style-type: none"> • Monitoring contractor activities including inspection, oversight, acceptance, rejection, and technical direction, preparation of daily progress and activity records. • Review and approval of prime contractor procurement activities including subcontract consent packages, technical submittals and subcontract administration. • Review and approval of work plans and coordination and integration of regulatory agency communications and requirements. • Receipt and processing of changes, approval of fee-bearing changes, and preparation of modifications. • Award fee monitoring, reporting, administration, and participation in recommendation of fee to the fee determining official. • Property oversight and administration. <p>Review and processing of public vouchers.</p>
<p><i>Coordination with agencies that will be involved in</i></p>	<p><i>Identify and contact those agencies expected to be involved with contract administration.</i></p> <p>If the majority of the contracts the Contractor is performing are with the Defense</p>

CONCERNS	BEST PRACTICES
<i>contract administration</i>	<p>Department, the following agencies may be involved in administration of your contract:</p> <p>Defense Contract Audit Agency (DCAA): The cognizant DCAA office will probably be located in a major city close to the corporate headquarters of your contractor.</p> <p>Defense Contract Management Command (DCMC): If your contractor has previously performed cost reimbursement contracts for the Department of Defense, this agency may have appointed a contracting officer to perform administration and oversight of corporate policy matters such as employee pension plan administration, corporate officer compensation, etc. DCMC is responsible for CAS administration and they may want to add CPSR reviews.</p> <p>Defense Logistics Agency (DLA): The Defense Reutilization Office of this agency is normally responsible for the receipt and disposal of surplus government property including that of cost reimbursement contracts.</p> <p>General Services Administration (GSA): The GAS can provide/authorize the use of government supplies and services including GSA vehicles.</p> <p>If your contract is with the Environmental Protection Agency (EPA) or the majority of the contracts your Contractor is performing are with the EPA then the cognizant auditor may be the EPA Auditors. You need to check with the Contractor regarding their cognizant audit office.</p>
<i>District organizational activities required in support of inter-agency involvement.</i>	<p><i>Carefully outline local policies with Standard Operational Procedures (SOPs) for use in integration of outside agencies.</i></p> <p>As the involvement of outside agencies becomes defined, so should the authorities and responsibilities within the District be determined. This is effectively done through the preparation of Standard Operating Procedures (SOPs). The SOP is a written document that establishes the authorities, responsibilities, and duties or personnel in support of specific functions required for contract management and administration. A project specific management plan would include the contractor and government SOPs, and the interface between the two procedures. The interface, for example, would specify the who, how, when and where the contractor would deliver a specific contract deliverable to the government.</p>

ORGANIZATION AND AUTHORITIES FOR MANAGEMENT OF COST REIMBURSEMENT CONTRACTS

CONCERNS	BEST PRACTICES
<i>Planning for the Government management office for cost reimbursement contracts.</i>	<p><i>Make the office fit the required function</i></p> <p>a. Successful management offices are those that are best designed or planned specifically for the project at hand, and in consideration of the existing government agency management structure. An on-site Resident Office has successfully managed large facility-type construction projects; a Project Office has managed smaller construction projects. Environmental remediation (TERC) and other projects are currently being managed by a variety of organizations including, Construction, Engineering, and Project Management Divisions.</p> <p>b. There should be a single, authoritative, point of contact between the Government and contractor for overall management of the project and formal exchange of business.</p> <p>c. Reference: ER 10-1-1 and ER 10-1-2 for guidance and direction on organization and functions of Army Corps of Engineers military construction.</p>
<i>Selection of the proper job skills and position titles for the Government management office.</i>	<p><i>Develop a Management Plan and concentrate on the skills needed for a cost reimbursement contract</i></p> <p>a. Prepare a comprehensive <i>Management Plan</i>, outlining all of the required functions to be accomplished on the project and indicating whether they are to be done by Government or Contractor personnel. Use the Management Plan to determine the time-phased resources required for both the Government and contractor organizations.</p> <p>b. <i>Focus on the job functions needed, particularly those unique to cost contract management.</i></p> <p>Prepare a list of functional duties required for overall management of the contract and select those that will be needed for “full-time” assignment to the management staff. Consider obtaining all other government functions by “part-time” or matrix management with other organizations. Consideration should be given to the appropriate functional areas in order to make the project successful. Functional areas may include:</p> <p style="padding-left: 40px;">Resident Engineer or Project Manager Contracting Officer and Contract Administration Quality Assurance Technical Engineering</p>

CONCERNS	BEST PRACTICES
	<p>Engineering - Design Regulatory Environmental Compliance Industrial Hygiene; Chemist Safety Cost Management Scheduling Cost Accounting Voucher Examination Property Administrator Budget Analyst Administrative Support Audit (Cognizant Auditor)</p> <p>It should be noted that an important function of the Government staff is to review and approve the management practices of the contractor before, during, and after the work is being accomplished.</p> <p>For additional information, see <i>Cost Reimbursement Construction Contracts (CRCC) Guide, Section 7.</i></p>
<p><i>How to staff the government and contractor management offices efficiently and effectively.</i></p>	<p><i>Use a time-phased staffing plan.</i></p> <p>In staffing the Government office, remember that the contractor will start spending project money immediately upon initiation of a task order. Therefore, the contract management and administration team, together with cost and schedule and voucher examination personnel, should be trained and available as soon as the project is awarded. Other technical personnel can be added as needed. The most common problem with Government staffing is a failure to assign trained personnel early enough to the project.</p> <p>For the contractor office, the build-up of contractor personnel can be controlled by a time-phased staffing plan. This is simply a calendar that outlines project events and ties reporting dates of personnel to specific project requirements. The phased staffing plan is also useful in determining when personnel should leave the project, upon completion of work, or phases of work. The most common problems in contractor staffing are obtaining excessive resources too quickly and having excessive personnel remain longer than necessary upon completion of work or work phases.</p>
<p><i>Establishing the necessary contractual authority for the government project management office.</i></p>	<p><i>Assure qualified and trained personnel are assigned and recognize that all Government personnel, regardless of their authority, <u>can</u> influence project costs.</i></p> <p>Some of the designated positions on the Government team, and typical authorities, include:</p>

CONCERNS	BEST PRACTICES
	<p><u>Contracting Officer (CO or PCO)</u>: Awards the contract; awards task orders; authorizes or awards contract modifications; approves overtime; enforces contract actions; may disallow costs; consents to subcontracts.</p> <p><u>Administrative Contracting Officer (ACO)</u>: Authorizes contract modifications up to limits of authority; performs contract administration as delegated. May implement management procedures or guidelines that could result in disallowance of contractor incurred costs. The ACO for voucher approval for payment is the cognizant auditor with DCAA or EPA.</p> <p><u>Project Manager - Resident Engineer</u>: This position is the day-to-day person in charge of the project for the government. In approving contractor management plans and work plans, and in approving or directing the means and methods or extent of contract performance, this position may greatly affect project costs even though there may not be a specific contracting officer associated with the person or position.</p> <p><u>Contracting Officer's Representative - Technical Staff (COR)</u>: Many personnel may be assigned to provide oversight or observation of contractor activities at local or remote sites. As these government personnel approve or disapprove contractor work, they also influence costs regardless of their contractual authority or lack thereof.</p>
<p><i>Control of field directions to the contractor that do not come from or through the Contracting Officer.</i></p>	<p><i>Accept the fact that <u>all</u> Government personnel may give directions that influence costs - - - train everyone appropriately and record the technical direction given.</i></p> <p>If government technical personnel or QA staff, or even a QA laboratory technician, rejects the results of a test, or determines that more work is needed to satisfy specification or regulatory requirements, their technical finding may require that the contractor repeat work or perform additional work at project expense. This is the nature of cost reimbursement contracting: government actions directly influence costs! However, any change in cost is not necessarily the basis for a contract modification. Government personnel should also be aware that reduction of work requirements, where permissible, would result in total cost savings to the government. Technical personnel should be trained to require specification compliance but to avoid "over compliance", that is, performance to a level that exceeds applicable requirements. In this regard, specification requirements are sometimes considered to be only "guidelines" because exact or full compliance may not be needed. Rather than eliminating communications with the contractor, the Government team should give the contractor as much information and direction as possible in a way that will contribute to effective and efficient completion of the work.</p> <p>Because "direction" can be given on a frequent basis, it is important to make a written record of all direction given so the technical baseline requirements of the contract can always be known.</p>

SELECTION OF THE TYPE OF COST REIMBURSEMENT CONTRACT, BASIS FOR TOTAL FEE, AND PAYMENT OF FEE

CONCERNS	BEST PRACTICES
<i>Selecting the Type of Contract</i>	<p><i>Selecting the Type of Contract</i></p> <p>For additional information on type and selection of type of contract, see EP 715-1-5 and FAR Part 16. This document refers to A-E contracts but applies to all types of contracts.</p>
Cost Plus Fixed Fee (CPFF)	<p><i>Cost Plus Fixed Fee (CPFF)</i></p> <p>This is the easiest contract to use for administration of fee because the total fee is determined upon award, unless the fee is later increased/decreased by a contract modification. The CPFF contract is most useful for short duration projects (less than 12 months). This contracting method does not allow the government to vary the amount of fee paid based upon contractor performance because the contractor is usually entitled to the fee upon complete and satisfactory performance. Because of this, the fee does not become a strong incentive for exceptional performance by the contractor. However, just as in fixed price contracts, the contractor can still be motivated by the reputation to be earned for completion of the project on time and with good quality, and by the opportunities for future work and a greater rate of return.</p>
Cost Plus Award Fee (CPAF)	<p><i>Cost Plus Award Fee (CPAF)</i></p> <p>The CPAF type contract creates a base fee pool between zero and 3%, and an award fee pool. The CPAF contract allows the government to vary the payment of the award fee pool, based upon contractor performance. First, the Government divides the award fee portion of the total fee pool between the expected performance periods. A performance period is normally 4 to 6 months. The government can equally divide the award fee pool over time or can assign variable amounts of money to each period, based upon the importance of the anticipated events of that period. Normally, the performance periods in which the performance risk is greatest would receive the larger allotment of fee funding. The performance of the contractor is monitored and scored subjectively by the government against an Award Fee Plan. Each period, the contractor receives the Base Fee plus a portion of Award Fee, based upon performance.</p> <p>While allowing the government to pay a variable fee, based upon performance, the CPAF contract requires a great deal of government effort for preparation and maintenance of the Plan, monitoring, scoring, etc. If the contract duration is expected to be one year or less, the potential benefits of the CPAF method may not be worth the required efforts nor will there be time to effectively redirect the contractor to perform better in future performance periods. In addition, if the contract is extended in time, the total fee pool may have been already paid out,</p>

CONCERNS	BEST PRACTICES
	leaving little or no fee for the contractor to earn during the last months of performance. All this adds up to more government resources to manage and administrate this type of cost contract. In addition, the Contractor may spend money to “look good” so a higher fee is realized. For example, if completion of a task on a very tight schedule is expected, the contractor may air-ship materials to the project an added cost to assure the schedule is maintained and the fee-score for the schedule performance element thereby remains high.
<i>Cost Plus Incentive Fee (CPIF)</i>	<p><i>Cost Plus Incentive Fee (CPIF)</i></p> <p>The CPIF contract allows the contractor to earn a variable fee based on a predetermined objective formula. This formula can contain incentives for quality or schedule performance but must always contain factors for cost control. The CPIF method is not recommended because changes in technical requirements, which are frequent on construction projects, can interfere with the contractor’s ability to achieve objective targets. The scope must be well defined to define the objective and any deviation generally results in more changes and claims than the other types of cost contracts.</p>
<i>Combining CPAF and CPFF on Task Order Contracts</i>	<i>Some contracts may allow each task order to be selected for fee method, based upon the circumstances of the task order. In this case, some task orders may be CPAF and others could be CPFF. It is wise to avoid the confusion of too many fee arrangements.</i>
<i>Combining Fixed Price (FP) and Cost Reimbursable contracts</i>	<p><i>Not recommended.</i></p> <p>It is not feasible to account for overhead personnel and common items such as facilities and equipment if FP and cost-type arrangements are used with the same contractor.</p>
<i>Maintaining Current and/or Multiple Award Fee Plans; Amount of effort required for Fee Administration</i>	<p><i>Be reasonable, timely, and responsive.</i></p> <p>While the fee can be used to incentivize the contractor for better performance in the future, excessive importance should not be given to fee administration. Note the following:</p> <ul style="list-style-type: none"> a. Having multiple award fee plans, frequent changes in award fee plans, or multiple methods of determination of fee (CPAF and CPFF) can be confusing to both government and contractor field personnel. Personnel assigned to fee monitoring should be given clear and consistent direction. Fee objectives should be understood and should be attainable through reasonable and consistent performance. b. Most of the contract cost (90% or more) will be spent in performance of the work. Great savings are available through improvements to the management, means, and methods of performance. A small portion of the contract (6 - 10%) is

CONCERNS	BEST PRACTICES
	<p>dedicated to award fee. Accordingly, all personnel should concentrate on improving performance for the work tasks at hand, and not be overly concerned with fee administration.</p> <p>c. Basic Principles for Award Fee Contracts</p> <p>(1) The contractor should receive exceptionally high fees for exceptional performance. No fee should be paid for unacceptable performance. The award fee plan must define both extremes.</p> <p>(2) Performance standards of award fee plans should be realistically achievable, based upon project technical difficulty, resources allowed, and schedule. Excessively high standards, which are unattainable, can cause the contractor to become resigned against the possibility of actually earning a high fee. The results of Award Fee decisions should be promptly available. Performance evaluations are not motivational if they are given on an untimely basis.</p>
<i>Determining the Total Base Fee and Award Fee in Cost Reimbursement Contracts</i>	<p><i>The fee can be established either through the Request for Proposal or by negotiation, depending on the circumstances. It is based upon a percentage of the total estimated cost of the contract or task order.</i></p> <p>a. Request for Proposal Method: When working with a project that is to be executed as a total contract (no task orders), a single fee total fee calculation may be best. The RFP should instruct the contractor to make a fee proposal. In the case of cost plus award fee, the contractor would propose a Base Fee. The amount of fee requested by the contractors proposal can be used by the government in the competitive selection of the successful contractor.</p> <p>b. Negotiated Method: On task order contracts, it may be most appropriate to negotiate the fee for each task order on a case by case basis, depending upon the cost risk and performance risk of each task order.</p>
<i>Stipulating the Basis for the Total Fee for the Contract</i>	<p><i>In the Request for Proposal, state the terms and conditions to be applied to the total fee determination.</i></p> <p>Unless otherwise stated, it is normally assumed that the total contract price will be the basis for determination of the total fee. If the government intends to use a different approach by excluding certain types of costs from the fee basis calculation, it should be so stated in the Request for Proposal. Some of the costs that the government may wish to reduce the fee or exclude from fee basis calculations are:</p> <ul style="list-style-type: none"> • Property acquisition • Large equipment purchases

CONCERNS	BEST PRACTICES
	<ul style="list-style-type: none"> • Travel Costs • Pass-through costs from cost reimbursement subcontractors, which also carry fee. • Pass-through costs for permits or fees paid to other government or regulatory agencies.
<i>Excluding certain costs from the Basis of Fee, for the total contract and/or for contract modifications</i>	<p><i>Develop a fair, reasonable, and consistent philosophy for the administration of the fee so the contractor is motivated to perform on the project.</i></p> <p><u>Fee Considerations:</u></p> <p>a. The fee paid to the contractor is used to compensate for unallowable or unrecoverable costs incurred and for profit. All contractors will have unrecoverable costs associated with the project such as advertising costs and interest on the funds required to operate the project prior to government reimbursement. If the fee actually received is not sufficient, the contractor will lose money on a cost reimbursement contract. This situation is definitely not motivational!</p> <p>b. The most valuable contractor resource is that of skilled management personnel. If a project does not offer a reasonable rate of return, the contractor will no longer be interested in dedicating the best personnel to the project.</p> <p>c. Fee is sometimes considered to be connected to the value received for management services. The exclusion of fee from certain categories of cost (such as travel cost) may suggest that little or no management of the cost category is required. In this sense, exclusion of cost categories from fee calculations can demotivate performance.</p> <p>The contractor should be allowed the opportunity to <u>earn</u> a reasonable fee for all aspects of contract performance.</p>
<i>How and When to Pay Fee on Cost Reimbursement Contracts</i>	<p><i>Make partial payments of fee to the contractor with each invoice.</i></p> <p>The actual formula or method for determining the amount of fee to be paid will vary with the type of contract, i.e., cost plus fixed fee or cost plus award fee, as outlined below.</p>
<i>Payment of Fee on Cost Plus Fixed Fee Contracts</i>	<p><i>Pay fee on a fee schedule, based on percentage of performance.</i></p> <p>FAR 52.216 8 and 9 indicates that payment for the fixed fee is normally made with each invoice and is based upon a percentage of total performance <u>or</u> milestone achievement until up to 85% of the fee has been paid. At the contracting officer's</p>

CONCERNS	BEST PRACTICES
	discretion, a maximum of 15% or \$100,000 (whichever is less) is retained until completion of the task order or contract. Retainage protects the government's interest if the final audit produces adjustments due to over payment of direct or indirect costs. The retainage should be released as soon as it is determined that the risk to the government is mitigated.
<i>Payment of Fee on Cost Plus Award Fee Contracts</i>	<p><i>Fee is paid each fee period based on the decision of the Fee Determination Official (FDO) but an estimated portion is normally allowed with each invoice.</i></p> <p>a. The Base Fee portion of the Award Fee Pool can be paid out proportionally with each contractor invoice.</p> <p>b. The exact amount of the Award Fee will not be known until the Fee Determination Official (FDO) makes a decision on Award Fee after each performance period. However, an estimated amount, normally 50% of the Award Fee available, can be paid out incrementally with each monthly invoice. Any corrections in Award Fee that has been paid (additions or subtractions) will be made as a lump sum with the first invoice following the decision of the Award Fee Official. Normally, there is no retainage of fee from the amount determined by the FDO.</p>

PREPARATION OF THE REQUEST FOR PROPOSAL FOR COST REIMBURSEMENT CONTRACTOR SELECTION

CONCERNS	BEST PRACTICES
<i>Development of an RFP for cost reimbursement contractor selection</i>	<p><i>Write the RFP for information on past experience with cost reimbursement contracts and/or contracts with similar management requirements.</i></p> <p>Consider requesting the following information through the RFP:</p> <ul style="list-style-type: none"> a. Management experience for the type of work to be performed. Refer to DFARS 215.805-5 b. Cost Reimbursement contract experience as a prime or subcontractor. Refer to DFARS 215.971. Obtain information on the status of the contractor's accounting system and a statement indicating if the system is "approved". Request any information on the contractor's CAS disclosure statement. c. Management systems presently in use, and/or systems proposed for this project, such as safety, quality assurance, network scheduling, estimating, design, earned value management, etc. In addition, inquire about the business management systems, such as time-keeping, accounting, internal auditing. Finally, systems that may be unique to cost contracts, such as property management, procurement system, subcontractor management, compliance with government cost accounting standards, billing standards, etc. d. A narrative on how the management systems are used to control cost, schedule, and quality performance. Learn the where, how, and by who relative to current and past experience with the systems. e. Have the contractor explain how past experience and management systems described for previous projects will be imported and applied to this project.
<i>Team effort for pre-award activities</i>	<p>Activities associated with the development and issuance of the RFP should include all offices that will be involved with management of the contract. This includes not only contracting and engineering, but project management, construction (if a construction contract), property management, the environmental regulator, and even the customer if appropriate. Each will have input on what is important for selection criteria, scope development and contractor's management systems.</p>
<i>Preparation of the Scope of Work (Statement of Work) for the RFP</i>	<p><i>The scope of work should be complete enough to adequately describe the project requirements so the appropriate level of management and technical resources can be estimated, but broad enough to allow for the insertion of technical direction after award.</i></p>

CONCERNS	BEST PRACTICES
	<p>If the scope of work is too vague, it is not reasonable to determine the expected management and technical effort necessary for successful performance. Alternatively, if it is too closely defined, including means, methods, and materials, then the technical direction given by the government may appear to be “changes to the defined scope” requiring frequent contract modifications and added fee. For example, a remediation project scope of work should state the expected contaminants, required regulatory standard to be achieved, and planned technology (if known). Details of the exact quantities of material, work force required, etc., to accomplish these tasks may be excessive.</p>
<p><i>Preparation of the RFP, listing management plan requirements</i></p>	<p><i>Cost reimbursement contracts require close involvement into contractor management procedures. The RFP sets the requirements and tone for mutual sharing of management systems and data.</i></p> <p>Consider indicating/requesting the following in the RFP</p> <p>a. List the contractor management plans needed and the date or milestone the plan would be expected, for example:</p> <p style="padding-left: 40px;">Project Management Plan - within 30 days after award.</p> <p style="padding-left: 40px;">Government Property Plan - within 30 day after award</p> <p style="padding-left: 40px;">Task Order Close-out Plan: 60 days prior to the estimated completion of task orders.</p> <p style="padding-left: 40px;">Other plans, systems, or data required: network scheduling techniques and required submittals, phased staffing plan, earned value management system requirements including government access and reporting requirements, contract management plans and procedures, contractor standard operational procedures, safety and health plans, and advance agreements.</p> <p>b. Include appropriate information on the Award Fee Plan (if applicable) to arrive at mutual expectation on performance.</p>

BONDS FOR COST REIMBURSEMENT CONTRACTS

CONCERNS	BEST PRACTICES
<i>Applicability Of Performance And Payment Bonds On Cost Reimbursement Contracts</i>	<p><i>Bonds are not Required on the Prime Contract.</i></p> <p>The contractor is required to pay subcontractors prior to requesting reimbursement and the risk of cost performance is borne by the Government, so no bonds are required on the prime contract.</p> <p>See DFARS 228.102-1(a).</p>
<i>Applicability of Performance and Payments Bonds on Subcontracts</i>	<p><i>Normally, The Prime Contractor Will Require Performance And Payments Bonds On Fixed-Price Construction Subcontracts.</i></p> <p>Fixed price subcontracts in excess of \$25,000 will normally require bonds, or alternative payment protections, and the cost of the bonds will be passed-through to the Government as part of the total contract price. On some subcontracts, the Contracting Officer may consider waving the requirement for bonds to reduce the subcontract cost.</p> <p>Cost reimbursement subcontractors do not require bonding but their fixed price second tier construction subcontractor would require bonds for contracts in excess of \$25,000.</p>

MITIGATING RISKS IN A COST REIMBURSEMENT CONTRACT

CONCERNS	BEST PRACTICES
<i>Elimination of risk in a cost reimbursement contract</i>	<p><i>Risk can t be eliminated, either for the government or contractor, but it can be reduced. The Government team should assure that their main goals are achieved through efficient and effective work of the Contractor</i></p> <p>Eliminating risks equates to the government staffing the project with trained and experienced personnel. These personnel must become involved in the project not just watch it. They will become involved in day by day decisions on how the work is being done not just the final product. They must get involved in the process.</p> <p>The Government should understand their goals for the project at various levels including total contract, task order, WAD, and work element. In some cases, exact performance to specification requirements is mandatory and is relatively independent of cost or schedule while in other cases, performance at the most economical level may be desired.</p> <p>The Government mitigates its risks when it achieves its contracting goals. Alternatively, the greatest risk for the government is to spend time and money on a contract or procedure which fails to achieve requirements and must be reworked or repeated at additional cost.</p>
<i>Developing the best management environment for the project</i>	<p><i>The Government team should assume the role of leader and upper-level manager.</i></p> <p>The contractor has been selected on the basis of outstanding technical and management skills and should be responsible for management and performance of the work. The Government team must coordinate the input and direction from the government side into an orderly process with consistent direction to the contractor. The contractor manages the work and the Government manages the contract and contractor.</p>
<i>Using team-building practices</i>	<p><i>Partnering and similar programs are beneficial.</i></p> <p>Partnering has been proved as a useful method of risk mitigation and for communication of goals and other important information between parties. Partnering is a commitment to a method of doing business more than being a single process.</p>

CONCERNS	BEST PRACTICES
<p><i>Inclusion of contractor and regulatory personnel in partnering processes</i></p>	<p><i>Include all Team Players in the Contract Partnership. This would encompass the contractor, environmental regulator and customer, auditors, and government managers.</i></p> <p>The most effective methods to manage cost reimbursement contracts involve the open communication of expectations and requirements between all team members at all levels. For example, <u>Environmental Regulators and Customers</u> must be understood by the contractor so technical requirements and other goals can be effectively achieved (How clean is clean enough?). <u>The Contractor</u> can influence both the regulators and government management team by explaining the economically available technical means and methods for accomplishing a task and may thereby favorably influence the selection of remediation technology. The requirements of <u>Auditors</u> must be understood and achieved. Auditors must produce timely reports from periodic audits but their success in doing so depends upon the timely submission of data, in usable format, from contractors. Communications between government managers, auditors and contractors will facilitate this effort. The timing of other audit reports and functions should be scheduled to meet project needs. For example, audits of “time keeping” a “floor-check” of personnel assigned, or a check of the “estimating system” should all be scheduled at such times that there is a significant effort underway for the present contract - - - this will provide more credible results from the audit effort. <u>Government managers</u> must understand all parties to effectively and efficiently set contract goals and management methods and they should look to widen the circle of personnel and agencies involved in making and communicating management decisions.</p>
<p><i>Additional management methods for risk mitigation</i></p>	<p><i>Consider the following additional ideas:</i></p> <p><i>a. Joint Training:</i> Joint training sessions between Government and contractor teams builds a teaming environment and establishes common understanding of technical requirements and/or capabilities. For example, a joint training session on CPM scheduling will result in a shared knowledge of system capabilities, contract requirements, and methods or reports to be used to satisfy needs. Similar training could be effective on the subjects of estimating systems, earned value analysis, financial management reports and methods, and quality assurance.</p> <p><i>b. Application of Sound Business Judgment:</i> Make decisions like a fully informed owner by knowing cost, schedule and technical limitations - - - don’t chase after unrealistic or unattainable goals.</p>

TASK ORDER DEVELOPMENT AND AWARD

CONCERNS	BEST PRACTICES
<i>Planning for task order initiation</i>	<p><i>Prepare the government and contractor organizations, facilities, and personnel to the extent possible before task order initiation.</i></p> <p>a. Attempt to determine the impact of a task order on the contractor and the existing government work force and provide advance notice if possible on likely changes to be required. Assure that an adequate staff is available to perform required contract administration and oversight.</p> <p>b. Where possible, allow sequencing and coordination of the work so personnel and equipment resources can move from task-to- task or site-to-site without large increases or decreases in resources. Premature termination of personnel and equipment that is under contract may generate unanticipated large costs.</p>
<i>Development of the task order scope of work</i>	<p><i>Involve the all parties (Contractor, customer, regulators, etc.) in preparation and review of the task order.</i></p> <p>a. Involving all parties in the scope process produces a more efficient process to award the task order. When all parties are involved, there is an assurance that requirements are not left out, that all parties agree on what needs to be done, and there are no surprises. It also shortens the negotiating process as the scope is already established.</p> <p>b. The contractor should be (1) involved in review of all available documentation on the proposed task order, (2) perform a site inspection, (3) prepare the statement of work or actively review a statement draft. This pre-task order activity can be a costly item for which the contractor should be compensated. In some Districts, a task order is issued for this initial work, followed by a modification to add the actual task order work after final negotiation.</p> <p>For additional information, see CENAE <i>A Guide to Cost-Reimbursable Contracting, Part I.</i></p> <p>c. The Statement of Work (SOW) should be detailed enough to cover the work but still allow the necessary technical direction for contract performance. The SOW is closely tied to future determinations on fee-bearing changes because additional work that is required beyond the SOW may be fee bearing.</p> <p>d. On HTRW projects, the detailed scope of work will be developed in the work plan. The work plan is equivalent to the plans and specs of a fixed price contract. The work plan establishes a technical baseline and is one of the indicators if direction to the Contractor is a fee bearing change or not.</p>

CONCERNS	BEST PRACTICES
<i>Selection of the type of cost reimbursement contract to be used.</i>	<p><i>Choose the best contract type for the task at hand.</i></p> <ul style="list-style-type: none"> a. Cost Plus Fixed Fee (CPFF) b. Cost Plus Award Fee (CPAF) c. Cost Plus Incentive Fee (CPIF) <p>See the Topic “Selection of Type of Contract” of this guide for information on cost reimbursement contract types.</p>
<p><i>Perform the necessary contract negotiations and prepare supporting documents.</i></p>	<p><i>Negotiation requirements may be very similar to those required for fixed price contract negotiated procurements.</i></p> <ul style="list-style-type: none"> a. The threshold for the requirement for a government estimate, cost and pricing date, pre-negotiation, and price negotiation memorandum remains the same as for fixed price procurements. For the audit requirement threshold, see DFARS 215 805-5 b. The government estimate should not only include labor, material, and equipment, but should also have a detailed breakdown of the contractor’s management office requirements. Fee should be developed in accordance with the DFARS 215.971. c. The use of realistic assumptions during the negotiation process is critical. If the assumptions are too conservative, the task order will experience a cost overrun, additional funds will be needed to complete the work, a fee bearing change may result, and the credibility of the contractor and government management team may be damaged. The consequence of under-running a task order are simply that the contractor may have received a very slightly inflated fee; only the costs actually incurred in performance of the work are paid. d. To some extent, the final cost of a task order influences the determination on fee-bearing changes. If a task order grows in cost sufficiently, it is possible that there was not a “meeting of the minds” on the basic contract requirements at the outset. Leaving some flexibility in the estimated cost of a task order allows for the inevitable technical direction that will come later without preparation of a fee-bearing contract modification for every item. One of the benefits of a cost reimbursement contract is the ability of the government to provide technical direction without the necessity of a contract modification. However, this benefit is lost if the task order has been negotiated too conservatively.

CONTROL OF THE CONTRACT MOBILIZATION PHASE

CONCERNS	BEST PRACTICES
<i>Setting up the management</i>	<p><i>Setting up management systems at the very beginning is important.</i></p> <p>As costs start accumulating immediately in a cost contract, it is important that the management systems be initiated to control those costs. Top priority should be placed on development of the following:</p> <p>Project Management Plan: This plan includes both the government and contractor's organization, personnel, responsibilities for each position and how the organizations will interface. The document should include standard operating procedures (SOPs), contract management procedures (CMPs), and Advance Agreements. If these do not already exist then they need to be developed and agreed to.</p> <p>Project Controls: The estimate/cost proposal, which was the basis of award, needs to be revisited and adjusted as necessary. The work breakdown system (WBS) needs to be established and must not only reflect the contractor's management but the government's needs in reporting. The work authorization documents (WADs) need to be established based on the WBS and a baseline for each established. The schedule must be developed and resource loaded. The earned value reporting system needs to be implemented.</p>
<i>Control of Contractor mobilization</i>	<p><i>Implement a Time-Phased Mobilization (Demobilization) Plan</i></p> <p>Mobilization and Demobilization may occur numerous times during the execution of a project. Each task order and/or major phase of work involves adding new labor, equipment, and material to start the work and also will eventually require the release of those same resources upon completion. A <u>Time-phased mobilization plan</u> outlines the required resources for each element of the project.</p>
<i>Effective cost control during mobilization</i>	<p><i>Just-in-Time delivery:</i></p> <p>The most cost effective method for management is to have all resources delivered only as they are needed, not before. If materials are delivered too soon, they must be stored, protected, etc., all at added project expense. It is also expensive to have excessive personnel on the project before they are needed. However, because the arrival of all resources can not be timed perfectly, the potential costs of early delivery must be weighed against the inefficiencies of late deliveries and a balance established.</p>

CONCERNS	BEST PRACTICES
<p><i>Effective Cost Control During Demobilization</i></p>	<p><i>Implement a Time-Phased Demobilization Plan</i></p> <p>A demobilization plan can establish the date beyond which the government does not intend to allow reimbursement for specific resources. It is possible that the contractor may retain equipment and labor until there is another active project to which they can be conveniently transferred. However, this natural tendency may extend the cost of resources on the present contract or task order beyond a reasonable time.</p> <p><u>Cautions:</u></p> <p>a. It is not wise to release all contractor personnel before contract business has been concluded, regardless of the desire to stop the accumulation of costs. The contractor must have an adequate staff to perform government property management, contract administration, and close-out activities.</p> <p>b. Premature release of equipment and materials that may be required during later contract phases may not be cost effective. The cost of termination of long-term equipment leases, cost of demobilization and remobilization, and interim storage costs should be considered.</p>
<p><i>Establishing and Enforcing Mobilization/De mobilization Plans</i></p>	<p><i>Implement Contract Management Procedures</i></p> <p>Under the concept of <i>Contract Management Procedures (CMP s)</i>, the government and contractor jointly develop the plans and procedures for the work. It should be understood that work outside of the accepted CMP's might be justification for denial of costs because such costs are not reasonable.</p>

CONTROL OF CONTRACT WORK

CONCERNS	BEST PRACTICES
Effective management and control of the work.	<p><i>Implement the Work Authorization Document System (WAD) to subdivide the project into manageable pieces.</i></p> <p>(Note: The topic of WADS is more thoroughly discussed in this <i>Guide</i> under the topic of Cost Control)</p> <p>The Work Authorization Document (WAD) system is an administrative method of controlling costs by providing direction to the contractor on those aspects of the project for which work is authorized, together with a budget limit for each work element. Even the most complex projects are thereby reduced into manageable pieces, each with a budget against which actual performance can be tracked.</p> <p>The WAD system frequently is organized along the same lines as the Work Breakdown Structure (WBS), a method of logically subdividing the project. Wherever possible, it is recommended that the WBS for the project be developed first, then the contractor is given authorization to proceed, based on specific WBS identification.</p> <p>For more information on WBS, see <i>Cost Reimbursement Construction Contracts (CRCC) Guide</i>, Chapter 9. <i>Implement the Work Authorization Document System (WAD) to subdivide the project into manageable pieces.</i></p>
Relating the WAD System to a Contract Line Item (CLIN) or to a Contract Task Order	<p><i>WADS are used to further subdivide Contract Line Items or Task orders and should follow the contract structure.</i></p> <p>The relationship between the CLIN, the WADs, and the WBS is based on the management objectives of the project team and this will vary from contract (task order) to contract (task order). There are no all-inclusive solutions.</p>

CONTROLLING CONTRACTOR COSTS

CONCERNS	BEST PRACTICES
<i>Controlling costs through the contractual process</i>	<p><i>Prepare Advance Agreements</i></p> <p>FAR 31.109 defines Advance agreements. Advance Agreements deal with the allocability and reasonableness of costs. Advance Agreements are signed by the Contracting Officer and Contractor and are contractually binding. They are prepared either before or after contract award but before (in advance) of the occurrence of the costs they describe. Advance agreements can make otherwise allowable costs unallowable but cannot make unallowable costs allowable. For further information, see the list of advance agreements.</p>
<i>Control of contract costs through management processes</i>	<p><i>Prepare and Implement Contract Management Procedures (CMP's)</i></p> <p>Contract Management Procedures (CMP's) outline business procedures to be used during the life of the contract or on a specific task order. They outline normal business practices and become a guide for a determination of <i>reasonableness</i> of costs. If a proposed or actual cost is beyond that prescribed by the applicable CMP, it may not be reasonable. In some districts, CMP's and Advance Agreements are used interchangeably.</p>
<i>Controlling costs through Contractor oversight</i>	<p><i>The government should have enough personnel on the project to assure efficient use of materials, equipment, and labor.</i></p> <p>Government personnel assigned to the project should be involved with the process rather than the product. If the product is wrong, the government will end up paying to have it redone. Proactive involvement with the process stops problems early and assures the best value.</p> <p>The most difficult costs to control are those generated in the contractor's home and/or regional office. Work plans, design, purchasing and administration must be controlled. More and more of the contractors are changing their accounting systems' CAS Disclosure Statements and direct charging much of what used to be indirect costs. The government must be proactive and establish budgets for this work. Actual costs must be matched against the budget and problem areas fixed. In addition, the government should perform unscheduled floor checks of these facilities be sure the work being charged to your contract is being performed and that everyone is filling out their time card on a daily basis.</p>

CONCERNS	BEST PRACTICES
<p><i>Assuring regulatory compliance with complex required business practices.</i></p>	<p><i>Use Audit Agencies</i></p> <p>Government audit agencies such as Defense Contract Audit Agency (DCAA), EPA, etc., can conduct many financial and business practice audits that will help validate compliance with regulations as well as identify potentially unallowable costs. Financial audits may cover annual incurred costs, indirect costs, and audits of contractor proposals. Business practice audits include review of contractor activities such as personnel time and attendance procedures, “floor checks” (validation of employed personnel) and estimating system reviews.</p>
<p><i>How can the government be assured the contractor is making the best economical decisions and implementing practices that result in a reasonable cost?</i></p>	<p><i>Implement Cost and Schedule Control Management Procedures and Methods.</i></p> <p>a. <u>Earned Value” Methods:</u> Whenever the contract or task order is expected to require more than three months to complete, implementation of earned value analysis may prove to be beneficial. Earned Value methods provide a means of forecasting the cost of the project at completion based upon performance during each month or accounting period. This is done by measuring work accomplished against work planned. Earned value requires the use of a resource loaded schedule, a data base system which actual progress can be input, and a software program which will report the following:</p> <p style="padding-left: 40px;">The baseline also called Budgeted Cost of Work Scheduled (BCWS) both during the period and cumulative.</p> <p style="padding-left: 40px;">The budget of what was performed called Budgeted Cost of Work Performed (BCWP) both during the period and cumulative.</p> <p style="padding-left: 40px;">The actual cost of what was performed called Actual Cost of Work Performed (ACWP) both during the period and cumulative.</p> <p>The difference between the BCWS and the BCWP is the schedule variance and the difference between the BCWP and the ACWP is the cost variance. This analysis indicates when and where a problem exists. It does not solve the problem. It is a management indicator that requires investigation and management action. See DODI 5000.2R, DFARS 242.302(41) and DLAM 8000.5 for further information. Former references to Cost Schedule Systems Criteria have typically been replaced with Earned Value Management System requirements.</p> <p>b. <u>Critical Path Network (CPM) Scheduling:</u> CPM scheduling has a proven track record throughout the construction industry. It can be applied to the management of both design and construction. CPM schedules can identify the critical path so that if schedule improvements are needed, properly selected work activities can be determined so that there will be an actual schedule gain in return for costs invested in expedited performance.</p> <p>For additional information, see CPM Scheduling (ER-1-1-11 Network Analysis System).</p>

CONCERNS	BEST PRACTICES
	<p>c. <u>Communicate</u>: Open and continuous communications is essential to control the contractor's cost. Cost and schedule meetings are generally monthly, but this is not often enough for technical meetings. Technical or work progress meetings should be held at least weekly and if required daily. Many times it is not possible for everyone to get together, but telephone conference calls with those who are out of the area are very helpful. These meetings/telephone calls help build teaming and confidence.</p> <p>d. <u>Monthly Management Meetings</u>: Management personnel from the contractor and government teams should meet monthly to review financial data, to identify problems or trends, and to outline corrective actions. This should be an interactive meeting, not merely the submission of cost and schedule data by the contractor. In addition, technical issues, safety, quality control, and property management items should be regularly discussed.</p> <p>e. <u>Identify the Difference Between Cost Reporting and Cost Management</u>: Cost reporting (or cost accounting) is making and/or reviewing records of how money has <u>already been spent</u>. Cost management involves making day to day decisions on the expenditure of funds. Cost management includes buying at the best price, together with a determination that the purchase is actually required as presently planned or described. Management suggests a foreknowledge of the budget cost for each work element and comparative evaluation of the expected actual cost for that element. If the actual cost is to be more than the budgeted cost, management intervention is considered <u>before</u> the money is spent. All opportunities to manage cost are available <u>prior</u> to the expenditure of funds.</p> <p>f. Be fully aware of the difference between these terms:</p> <p style="padding-left: 40px;"><u>Accrued costs</u>: the costs the contractor will be required to pay because orders have been placed and the bills will come due in time but may not have been paid as of the current date.</p> <p style="padding-left: 40px;"><u>Incurred costs</u>: The costs that have been billed or paid to date, which is normally somewhat less than accrued costs.</p> <p>The management system should be a data base system so the data can be queried several different ways. The tendency is to use the contractor's accounting system, but many accounting systems report only incurred costs and thereby do not provide enough timely data on the financial situation within the contract or task order to use for management.</p>

CONCERNS	BEST PRACTICES
<i>Effective management and control of all cost aspects of extremely large and complex contracts.</i>	<p><i>Implement the Work Authorization Document System (WAD) to subdivide the project into manageable pieces.</i></p> <p>The Work Authorization Document (WAD) system is an administrative method of controlling costs by providing direction to the contractor on those aspects of the project for which work is authorized, together with a budget limit for each work element. Even the most complex projects are thereby reduced into manageable pieces, each with a budget against which actual performance can be tracked.</p> <p>The WAD system frequently is organized along the same lines as the Work Breakdown Structure (WBS), a method of logically subdividing the project. Wherever possible, it is recommended that the WBS for the project be developed first, then the contractor is given authorization to proceed, based on specific WBS identification.</p> <p>Care should be taken in establishing the WBS/WAD system to assure they are not unnecessarily complex or a burden to administer.</p> <p>For additional information, see <i>Cost Reimbursement Construction Contracts (CRCC) Guide</i>, Section 9</p>
<i>Is a Work Breakdown Structure required for any reasons other than to support a Work Authorization Document (WAD) system?</i>	<p><i>Many estimating systems, including the Army Corps of Engineers MCACES system, are based upon a standard WBS. In addition, archiving data, for comparison of information between different contracts or projects, is most useful when placed into a standard WBS format.</i></p>
<i>Standardized approach to the development of a Work Breakdown System.</i>	<p><i>USACE has developed a standard model for a HTRW Work Breakdown Structure.</i></p> <p>See <i>CENAB Suggested Construction Policy and Procedures (CCP) for HTRW, Cost Reimbursement Contracts Type Contracts, Appendix B.</i></p>

CONCERNS	BEST PRACTICES
<i>Selecting best version of software to use for cost and schedule management.</i>	<p><i>Use the programs of the contractor.</i></p> <p>Unless specific software has been required by the contract, it is recommended that the software that has been used by the contractor on previous projects be allowed. The goal here is to allow the use of the systems and procedures that have helped the contractor be successful in other business practice and to reduce additional training of personnel.</p>
<i>Adopting the best cost goals for the government while executing the contract.</i>	<p><i>Implement the target goal of Lowest Reasonable Cost (LRC).</i></p> <p>It is important to instill cost consciousness in personnel on a cost reimbursement contract to optimize the total cost of a project the management team is concerned about many other direct or indirect work tasks that may be involved in conjunction with a specific work element and its cost. It may optimize the total project cost to have “just in time delivery” or to have materials delivered “FOB - Project Site”. The cost for delivery “just in time” may cost somewhat more than the lowest possible price, but it may be best for the overall situation. The Lowest Reasonable Cost approach considers factors other than simply the lowest possible price for individual project elements and is a moving target during execution of the project. Management should make decisions that result in an overall lowest reasonable cost.</p> <p>See <i>Superfund Pocket Guide</i> for a discussion of LRC.</p>
<i>Focusing limited numbers of government personnel on cost control for maximum effectiveness</i>	<p><i>Look at the <u>planned</u> ways and means of spending money by the contractor and introduce cost reduction alternatives before financial commitments are made.</i></p> <p>Look at the requirements and ask if it is necessary that the work be done as specified? Does all of the work have to be done to the level indicated by the current specifications, or could a lesser effort be acceptable? Is all of the “paperwork” that is demanded really required? Can duplication of inspections and record keeping be eliminated between the subcontractors and prime, and between the prime and government?</p> <p>Cost is controlled and managed <u>before</u> the money is obligated or paid out, not after.</p>

CONCERNS	BEST PRACTICES
<p><i>Assuring that the contractor does not overspend the funding authorized by the contract.</i></p>	<p><i>Control of obligated costs within authorized limits is a responsibility of the contractor.</i></p> <p>The contractor can not be reimbursed more than the amount authorized and must stop work before getting to that point, see FAR 52.232-21 or 22. The contractor must provide 60-day notification to the government before 75% of the funds are exhausted.</p> <p>Management Information Systems and management meetings should always stress the relationship between “funding authorized” vs. “cost obligated” so that necessary management actions can be taken before funds are exhausted.</p>
<p><i>Making a determination that a cost which has been incurred is reasonable</i></p>	<p><i>It is generally assumed that a cost is reasonable, unless the government demonstrates that it is unreasonable.</i></p> <p>The following factors may be considered in an effort to determine if a cost is not reasonable:</p> <ul style="list-style-type: none"> • Is the cost allowable by the contract, FAR Part 31, and within the general scope of the contract? Is the cost specifically excluded or limited by an Advance Agreement (AA) or Contract Management Procedure (CMP)? Costs that are clearly outside of the contract, scope, AA’s or CMP’s may be unreasonable. Also, if the government has given clear direction to stop or limit work in specific areas, costs incurred after the direction may not be allowable. • Was the cost representative of reasonable and prudent business decisions by the contractor at the time? Did the cost reflect the use of “Best Value” procurement practices? The government can not substitute its judgment for that of the contractor after-the-fact but must examine the basis for the management actions taken at the time the cost was incurred. • Does the occurrence of the cost follow normal practice in the construction trade or task involved? Checking with other contractors may indicate if it was reasonable to assume or expect costs of the type questioned. • Can auditors provide justification for exclusion of the costs on the basis of allowability, allocability and reasonableness? Professional auditors examine records of other firms and may indicate if certain types of cost are normally incurred and, if incurred, may provide an estimate of the range of costs normally experienced.

CONTROL OF SCOPE OF WORK, TECHNICAL COMMUNICATIONS, AND CONFIGURATION CONTROL BOARDS

CONCERNS	BEST PRACTICES
<p><i>Control of Technical Direction given to the contractor.</i></p>	<p><i>Provide sufficient and timely direction and information to the contractor to fully define the scope of work.</i></p> <p>The government should establish a unified channel, using one person if practical, through which all direction is officially given. This can be the COR, ACO or even the contracting officer. It is recommended that this person be close to the work and in touch with the Contractor daily.</p> <p>Any and all direction or information given to the contractor by the government (or regulatory agencies) can influence contract costs, either by increasing or decreasing them. However, a cost increase is not necessarily a “change” to the contract. It is most important to make sure the contractor has enough information to work effectively and efficiently and to avoid or minimize all delays in the process because the government pays for all work, including delays and inefficiencies. FAR 52.236-18 (applicable to cost contracts) states “the extent and character of the work to be done by the contractor shall be subject to the general supervision, direction and control of the contracting officer”. Normally, the contracting officer representatives (COR) will perform all of this activity directly with the contractor without frequent written contracting officer direction.</p> <p>It is important that all direction given to the contractor be recorded. Many Districts use a technical direction form. This form describes the direction, possible impacts to other work, cost impact if any, and has a place for both the government and the Contractor to indicate if the direction is considered fee bearing. The person giving the direction or the person receiving information that they consider beyond the technical baseline initiates the form. The important thing is that there is communication on what is considered technical direction and that there is a written record of that direction. The contract team should always have a shared understanding of the technical baseline (i.e., contract technical requirements).</p> <p>For additional information see <i>Cost Reimbursement Contracting</i> by John Cibinic and Ralph Nash, Chapter 6.</p>
<p><i>Who on the government team should communicate with the contractor?</i></p>	<p><i>Open communication at all levels!</i></p> <p>Generally, those technical staff with leadership responsibility should be able to communicate directly with the contractor about daily activities without consulting the contracting officer. Prompt communications will allow the work to proceed as rapidly as possible. If communications are expected to increase the scope of work beyond that outlined by a task order or WAD, the instructions should normally be</p>

CONCERNS	BEST PRACTICES
	given to the contractor in writing by a government team member authorized to do so. FAR 42.24 -7 requires the contractor to notify the contracting officer if communications or conduct of the government represents an impact to cost and schedule or is otherwise considered to be a contract change.
<i>Use of Technical Configuration Control Boards</i>	<p><i>Use Configuration Control Boards where justified by the complexity of the project.</i></p> <p>Configuration Control Boards (CCB) are committees of government personnel that determine the specific project requirements that must be achieved. These committees many times include technical, construction (if the work is in the construction phase), the customer, and project management. They also review the present contract, task orders, etc. to determine the funding situation. They decide what work is to be done, document justification for changes, and prepare necessary justification for cost and schedule increases. The control boards are must useful in determining the necessity for direction to be given to a contractor, particularly when a fee bearing change or cost growth may result. The actions of the CCB are normally issued in the form of recommendations to the Contracting Officer.</p>
<i>Determination that directions given to the contractor are changes are/are not fee bearing.</i>	<p><i>Establish a reasonable approach to the subject of changes and fee, communicate the government position to the contractor, and be consistent and fair in the application of the principles involved.</i></p> <p>A few simple rules on fee bearing charges which may result from technical directions are as follows:</p> <p style="padding-left: 40px;">If the new work proposed is different from or beyond what was contemplated by both parties as stated or as originally negotiated, it may be fee bearing.</p> <p style="padding-left: 40px;">If the work was excluded from the original negotiation at the direction of the government, but now is to be included, additional fee should be allowed.</p> <p style="padding-left: 40px;">If the amount of work of the contract or task order will be significantly increased, it may be fee bearing.</p> <p style="padding-left: 40px;">Increased requirements for subcontractor acquisition, administration, and oversight by the contractor may be justification for a fee bearing change.</p> <p>The decision to allow fee on a change rests with the Contracting Officer but is influenced by the government technical team and by the contractor's proposal.</p> <p>For additional information, see the topic of Fee Bearing Changes in this <i>Guide</i>.</p>

MANAGEMENT AND RELATIONSHIPS BETWEEN THE GOVERNMENT AND SUBCONTRACTORS

CONCERNS	BEST PRACTICES
<i>Determining the manager for subcontracts on a cost reimbursement contract</i>	<p><i>The general contractor should manage subcontracting, following the intent of FAR.</i></p> <p>Subcontracts are between the prime contractor and subcontractor and the government has no privity of contract. However, since <u>all</u> costs are reimbursed, the government is very interested in the contractor's management and maintains close oversight.</p>
<i>Understanding the prime contractor's management methods for procurement and subcontracting</i>	<p><i>Use the Contractor's Purchasing System</i></p> <p>a. The Defense Contract Management Command (DCMC), the cognizant ACO, or the EPA equivalent, is responsible for review and approval of the contractor's purchasing system. This review is called a Contractor's Purchasing System Review (CPSR). If the contractor has an approved CPSR, contracting officer consent is not required for certain contracting actions, see FAR 52.244-2. Even if consent is not required, advance notification to the government is required. Notification packages contain the same information as consent but the Contractor does not have to wait for approval. Review of the notification packages is important to make sure the Contractor is following their own procedures. Care should be taken to be sure the Contractor has included in his subcontract the flow down clauses required by FAR.</p> <p>b. Most contractors' purchasing systems require pre-qualification of the subcontractors. This is OK as long as the Contractor continuously pursues adding to the list of pre-qualified bidders. This process tends to protect the government.</p> <p>c. The purchasing system is also a required element of the government property plan. If the contractor does not have an approved purchasing system, the contracting officer should review the company's plan, or request DCMC to perform the review, and develop a Contract Management Procedure (CMP) identifying the areas the contractor should improve or change. The government has the financial risk of subcontractor claims and therefore should gain assurance that proper procedures for procurement are being followed. A review should be performed every three years.</p> <p>d. The Contractor must also have a small/small disadvantaged (including WOB and HBCU/MI) participants) subcontracting plan. These plans establish a goal that the Contractor must give its best effort to achieve. Simply having a goal is not enough. The Contractor needs to have a proactive plan such as SB/SDB job fairs, set aside procurements, and input from outside small business agencies. The government must monitor the progress. It may be necessary for the government to provide</p>

CONCERNS	BEST PRACTICES
	<p>guidance to the contractor upon the amount of participation (i.e., cost reimbursement allowance) expected in such programs.</p> <p>For additional information, see <i>Cost Reimbursement Contracting</i> by John Cibinic and Ralph Nash, Chapter 6.</p>
<p><i>Use of sole source by prime contractor in subcontracting and purchase practices</i></p>	<p><i>Follow the Intent of FAR</i></p> <p>The use of sole-source contracts and suppliers will be an exception to the normal practice of competitive procurement by the Prime Contractor. However, there are normal exceptions of competitive purchase, as outlined by FAR 6.300. If the Prime Contractor intends to use sole source procurements, the contractor's procurement officer would prepare a document similar to a Determination and Finding.</p> <p>The Contractor can use sole source to select his subcontractor if the subcontractor was named as a team subcontractor at the time of source selection.</p> <p>The Contractor can also use sole source on a subcontractor if that subcontractor is in the mentor protégé program in the Defense Department. Government should be sure the subcontractor has been officially accepted into the program before allowing sole source</p> <p>Just because subcontractor is approved in the 8A program in the Small Business Administration does not qualify them for sole source at the subcontract level. The 8A program does not flow down into the prime contract. It is for Government use only.</p> <p>Just because a subcontractor is selected on a sole source basis does not mean the Contractor does not have to get consent or submit a notification package. The package must include how the Contractor justified the sole source action and determined that the price was fair and reasonable.</p>
<p><i>Contract modifications issued by prime contractor to subcontractors</i></p>	<p><i>Follow the Intent of FAR</i></p> <p>The Prime Contractor's Purchasing System should provide a section on the administration of change orders. Normally, change orders should be documented with (a) reasons for the change (b) written estimates for the changed work (c) subcontractor proposals (d) a pre and post-negotiation memorandum and (e) a signed contract modification which provides "accord and satisfaction" language. Contract modifications become direct costs to the prime contractor and are therefore reimbursable by the government. It is recommended that a Contract Management Procedure (CMP) be developed which will describe the administration of modifications by the prime contractor. The CMP would discuss policies for processing and negotiating modifications, claims, disputes, etc., between the prime and subcontractors and suppliers.</p>

CONCERNS	BEST PRACTICES
	<p>Note: The Changes Clause of the prime contract is not a mandatory flow-down clause. Since the government has a unilateral right to make certain changes to the prime contract, it is important that the prime contractor be able to do the same to its subcontracts. Encourage prime contractors to include language similar to the Changes Clause in all of its subcontracts.</p>

CONSTRUCTION QUALITY MANAGEMENT ON COST REIMBURSEMENT CONTRACTS

CONCERNS	BEST PRACTICES
<i>Does a cost reimbursement contract alter the requirements for quality assurance by the Government and quality control by the contractor?</i>	<p><i>The requirements for construction quality management are not altered and the rights of the Government to inspect, test, accept, and reject the work are defined by contract clauses. However, government personnel need to be involved during the entire process. During the course of work, there will be trade-off s on quality, which require interaction of the government and the Contractor. The government must only pay for what is done and therefore variances from the quality stated in the specifications may save considerable money if it is not needed.</i></p> <p>For additional information on quality management, see ER 1180-1-6 Construction Quality Management</p>
<i>The contractor does not bear the risk of faulty work and this could result in substandard quality.</i>	<p><i>While it is true that the contractor does not bear the cost for the removal of unsatisfactory work, there is no incentive for such performance.</i></p> <p>a. Maximum emphasis should be given to the prevention of work that does not meet project requirements and to avoid corrective actions that would be required. The cost of all work, including corrective actions, will be on the government's cost account. However, the contractor gets no additional fee for the added work effort and its associated cost.</p> <p>b. If the contract has an Award Fee Plan, "quality of work" and "avoiding rework" should be a significant evaluation factor.</p>
<i>Implementation of the Army Corps of Engineers Three Step QA/QC inspection program on cost reimbursement contracts.</i>	<p><i>Implement the Three-step program!</i></p> <p>The Three Step Program for QA/QC Management has been proven to be an effective approach to the achievement of quality in construction. The contractor and Corps should implement the program. Consideration could be given in the Award Fee to the effectiveness of the contractor's use of this program.</p>
<i>Construction Quality Management on subcontracts under cost reimbursement</i>	<p><i>The Prime Contractor may assume a QA role with the subcontractor performing QC.</i></p> <p>As part of the quality control responsibilities of the Prime Contractor, a quality assurance role may be required on subcontracts that have a quality control requirement. The contract clauses necessary to create a quality control organization</p>

CONCERNS	BEST PRACTICES
<i>contracts.</i>	at the subcontract level must be included in subcontracts and the prime contractor must assure compliance. Having a fixed price subcontractor assume quality control responsibility reduces the risk to the government. The prime contractor must ensure its QC program is fully integrated with any subcontractors.
<i>Performing quality control tests, surveillance inspections, and compliance checks by the government</i>	<p><i>Implement QA Testing as Necessary to Assure Compliance with Project Requirements.</i></p> <p>Since all costs are to be borne by the Government, the Corps may direct that additional tests and/or verification tests be performed by the contractor or through the contractor's independent laboratory rather than using entirely separate testing sources.</p>
<i>Action to be taken upon encountering contractor work that does not meet contract requirements.</i>	<p><i>Correct the Problem in the Most Economically Acceptable Manner that Results in Acceptable Performance <u>and</u> Correct the Problems that May Exist in the QA/QC Organization.</i></p> <p>a. Because all costs, including the cost for tear-out and replacement of substandard construction, will be borne by the Government, the completed work should be analyzed to determine if it could be accepted "as is". If not, develop the most cost effective remedy. The Government should be willing to examine all specification requirements during this process.</p> <p>b. The deficiencies in the QA/QC systems that allowed the problem to occur should be determined and corrected.</p>
<i>Teaming between contractor and government in QA/QC management</i>	<p><i>Encourage the Use of Teaming Arrangements!</i></p> <p>"Over-the-shoulder" review of shop drawings, joint visits to fabrication plants, joint surveillance inspections, and joint attendance in construction planning meetings by government and contractor personnel all provide for efficient and concurrent communications on various aspects of project performance. Such cooperative efforts between government and contractor are strongly recommended on cost reimbursement contracts.</p>
<i>"Excessive" Performance by Contractors on Cost Reimbursement Contracts.</i>	<p><i>Control the extent of performance with the work authorization document system and construction management meetings.</i></p> <p>a. The potential for "excessive performance" on a cost contract is great. It is possible to accumulate more resources (labor, equipment, materials) than necessary for various task orders or work elements. It is also possible to develop an attitude that somehow "better work means more fee". The Government can maintain control by:</p>

CONCERNS	BEST PRACTICES
	<p>(1) Requirements to complete work within the funding negotiated and authorized under the WAD (Work Authorization Document) for each phase of work.</p> <p>(2) Encouraging the use of competitive fixed-price subcontracts where possible.</p> <p>(3) Evaluating actual performance against industry standards.</p> <p>(4) Linking the efficiency of performance to the Award Fee.</p> <p>(5) Voucher review.</p> <p>b. Joint construction management meetings can be used to communicate requirements for quality, safety and other “general conditions” so that a reasonable and planned approach can be taken.</p>
<p><i>Contractor or government initiatives for reduction of quality performance requirements</i></p>	<p><i>Encourage the Most Cost Effective Performance at all Levels!</i></p> <p>On fixed-price construction, acceptable deviations or relaxation from specifications are normally processed with a “credit change order”. However, all costs or credits on a cost reimbursement contract go directly to the government account. The most cost-effective performance should be encouraged, with suggestions welcomed from both government and contractor personnel. Deviations or relaxation of specifications should be properly considered by technical personnel, with technical direction or contract modifications issued to the contractor by authorized contracting officials. In some cases, the Award Fee Plan may be used to recognize contractor initiatives for cost reductions.</p>
<p><i>Additional duties of government QA personnel on cost reimbursable contracts</i></p>	<p><i>Consider the Following Topics, as Applicable, in addition to all other Traditional Duties of Government Personnel:</i></p> <p>a. Review contractor work plans and procedures, together with available labor, equipment, and materials, to assure the potential for compliance with project requirements.</p> <p>b. Initiate, implement or communicate “technical direction” to the contractor regarding the means, methods, or extent of performance required.</p> <p>c. Maintain, develop, or review equipment, materials, and labor usage and status reports.</p> <p>d. Evaluate the efficiency of contractor operations and recommend improvements in contractor operations and/or in specification requirements.</p> <p>e. Monitor contractor performance against project schedules.</p>

CONCERNS	BEST PRACTICES
	<ul style="list-style-type: none">f. Coordinate or obtain permits, or take actions to facilitate performance on military installations. Assure compliance with permit conditions, limitations, or restrictions.g. Review the management of government property.h. Prepare Award Fee Evaluation documents or reports.i. Perform voucher review.

COMPLIANCE WITH LABOR LAWS

CONCERNS	BEST PRACTICES
<i>Applicability of labor laws on cost reimbursement contracts</i>	<p><i>The labor laws that are normally utilized on fixed-price construction contracts are applicable on cost reimbursement contracts - - - check the contract clauses for those applicable.</i></p> <p>The primary labor laws that impact costs are the Davis-Bacon and Service Contract Acts.</p>
<i>Establishment of wage rates for construction personnel.</i>	<p><i>Approval of Wage Rates.</i></p> <p>In accordance with FAR 52-222.16, the contractor must submit a written request to the head of the contracting activity for reimbursement of any straight time wage rates or overtime rates if the subject rates exceed those set forth in the Davis-Bacon minimum wage determination. If the contractor pays wages in excess of the Davis-Bacon Rate without approval, the extra cost may not be reimbursable. If the contract is under the Service Contract Act (SCA), the contractor must include SCA wages in subcontracts that are service type, see FAR Part 22.</p>
<i>Payment of overtime on cost reimbursable contracts</i>	<p><i>The contracting officer must normally authorize the use of overtime or premium time. The cost for overtime premiums must also be contained within the contract amount, task order amount, or WAD amount, and <u>not</u> be treated as an additional cost.</i></p> <p>It is reasonable to assume that some overtime may be required in the day-to-day construction efforts. The contractor should not be forced to choose, for example, between finishing a concrete placement properly at the end of the shift or incurring unallowable overtime. The solution may be for the contractor establish an overtime budget as part of each WAD.</p>
<i>Requirements for labor interviews and compliance checks</i>	<p><i>Enforce labor provisions of the contract</i></p> <p>The Government should assure compliance with applicable labor laws. The prime contractor should perform checks on fixed-price subcontractors and the Government should assure compliance. Government personnel may perform labor compliance interviews of subcontractor personnel.</p>

WARRANTIES

CONCERNS	BEST PRACTICES
<i>Use of warranties on a cost contract</i>	<p><i>There is not a warranty on the work performed by the Prime Contractor, Except for Warranties Provided by Equipment Manufacturers and other standard warranties.</i></p> <p>Because <u>all work</u>, initial work and remedial work later on, is on a cost reimbursement basis, there is no general warranty on the work performed by the prime contractor. However, there may be standard warranties provided by manufacturer's for equipment and materials furnished. Manufacturer's warranties should be transferred to the Using Agency for registration and administration.</p>
<i>Use of warranties with subcontractors</i>	<p><i>Fixed price subcontractors must provide the traditional one-year warranty for materials and workmanship.</i></p> <p>The Prime Contractor must assure that fixed price subcontracts contain clauses to create a one-year warranty after acceptance.</p>
<i>Administration of warranty programs on cost reimbursement contracts</i>	<p><i>Perform warranty administration in accordance with applicable Memorandum of Agreement (MOA) with customers.</i></p> <p>The methods for administration of the warranties should be considered in the initial project planning and in project MOAs</p> <p>Because all work performed by the contractor will be "at cost" to the Government, it is generally more economical to have the Using Agency receive, register, and administer the warranty program. However, if the Prime Contractor is readily available at the site, the Prime Contractor can be tasked to administer warranties on behalf of the Government.</p>

FEE BEARING CHANGES ON COST REIMBURSEMENT CONTRACTS

CONCERNS	BEST PRACTICES
<i>The need for Contract Modifications on a Cost Reimbursement Contract</i>	<p><i>Contract modifications are used to document or chronicle the directions given to the contractor. The government should develop a consistent program to document both technical direction and change orders given to the contractor and thereby maintain a technical baseline . The baseline is a statement or series of documents that constitute current contract requirements. Individual elements of modifications can be fee bearing or non-fee bearing. All directions given to the contractor should be considered for their potential to be fee bearing and contract modifications should explicitly state which elements within them are fee bearing or non-fee bearing.</i></p> <p>While not all direction given to the contractor constitutes a change order, it is important to track directions given to the Contractor. Some Districts do this with a Technical Direction form that indicates the direction and whether it is considered fee bearing. Some Districts find it useful to regularly issue contract modifications to encapsulate technical directions although this gets heavy with contract documents and requires extra time. Either way, the technical baseline of the official contract is maintained. Contract modifications can be fee bearing or non-fee bearing, depending upon the nature of the changes or direction contained therein.</p>
<i>Determining if Changes are Fee Bearing or Non-fee Bearing</i>	<p><i>Base decision on the negotiated scope of work and the impact of any changes on the contractor.</i></p> <p>Normally, the <u>scope of work</u> or <u>statement of work</u> represents the extent or magnitude of the project that the government contemplated in return for the established fee. If the scope has changed, the causes and costs for the change may be considered to be fee bearing. For this reason, the government may wish to use very general language when preparing the statement of work. However, subsequent government and contractor discussion and negotiation that narrows the statement of work into quantifiable terms for estimating purposes also influence the definition of "scope" and come to represent the expectations of the contracting parties. In fairness, both the Statement of Work itself and the estimates, calculations, and expectations and negotiations behind the statement represent the scope of work for fee purposes and any increases should be carefully examined for the potential to increase fee.</p> <p>Remember, when the contract/task order was originally negotiated, the exact scope was not known. The Contractor agreed to give his best effort to complete and agreed to a fee for that best effort. To pay extra fee for all costs or contract directions above the estimate would approach and mirror a cost plus percentage of cost contract. On the other hand one could not expect the work to double and have</p>

CONCERNS	BEST PRACTICES
	<p>no extra fee applied. Fairness is the operative word. If during the original negotiations the government forces the Contractor to make assumptions, then you might owe fee if they change. If the Contractor makes the assumptions and the government agrees, the change may not be fee bearing as the government relied on the Contractor's expertise.</p>
<p><i>How to consider the Statement of Work in the determination of fee bearing changes.</i></p>	<p><i>Normally, if the work added is outside or beyond the expressed Statement of Work, the added requirements would be fee bearing. Consider the following factors in regard to the Statement of Work to determine if a direction given to the contractor may be fee bearing.</i></p> <ul style="list-style-type: none"> • Adding a building, facility, or site improvement not previously indicated or discussed, or adding work at a new site. • Dealing with an environmental hazard (asbestos) or pollutant not previously identified. • Changing the expected remediation technology or making a substantial change in required construction labor, materials or means and methods of performance. • Adding a significant system or enhancement to a facility that was not previously identified. • The magnitude of the effect on the contractor's resources, management level of effort, and overall time duration should be considered in any decision analysis for determining if a government direction represents a fee bearing change. <p>Summary: If government direction requires the addition or inclusion of a physical factor not listed in the statement of work, the added work may be fee bearing. Note: cost reimbursement contracts do not contain a "Differing Site Conditions" clause. It is therefore expected that adjustments in site conditions will be made, based on changes to the original negotiation and work statement.</p>
<p><i>Evaluating the impact on the contractor of added work or direction given as a means to determine if a change is fee bearing.</i></p>	<p><i>Consider the impact upon the contractor's planned resources and methods of contract execution to determine if added work is fee bearing.</i></p> <p>Does the added work require the commitment of contractor resources for a longer time period than originally planned?</p> <p>Will the added work require new, additional, or different contractor/subcontractor resources over and above those originally anticipated? Will this require more administrative effort?</p> <p>Will the added work adversely change or increase the contractor's performance or cost risk?</p> <p>Does the added work require additions or changes in management personnel or methods?</p> <p>Summary: The resources of a contractor are made available for the purpose of</p>

CONCERNS	BEST PRACTICES
	generating a profit. If the resources required are to be increased or extended through time, this impact on the contractor may justify the inclusion of fee on added work.
<i>Evaluation of other factors to determine if a change order may be fee bearing.</i>	<p><i>Consider the following general principles when making the determination of fee on a change:</i></p> <ul style="list-style-type: none"> a. Changes to quality, cost, or schedule: The fundamental requirements to be established in any contract are those of quality, cost, or schedule. If there is a significant change to any of these, which arises directly from government direction, there is strong potential justification for added fee. b. Deviation from government direction: The government provides information upon which the contractor must rely to prepare a proposal. If such direction changes, and a cost increase occurs, the added cost may be fee bearing. For example, if the government excludes the consideration of underground water from consideration in an excavation scope of work and negotiation, but water is later encountered, the added costs of dealing with the underground water will be fee bearing if its effect is considered significant. c. Estimating errors: If the contractor commits an estimating error, and cost growth is the result, the correction of the error is not a reason for the inclusion of fee on the added cost that may be experienced. d. Efficient Performance: Efficient performance by the contractor, which results in a cost reduction, is not a reason for decreasing the fee. e. Decreased Scope: A modification which results in a reduction of scope from the original contract may be fee bearing, that is, a reason for reduction of fee. <p>For more information on Fee Bearing Changes, refer to Cost Reimbursement Contracting, by John Cibinic and Ralph Nash.</p>

APPLICABILITY OF TAXES AND FEES ON COST REIMBURSEMENT CONTRACTS

CONCERNS	BEST PRACTICES
<i>Reimbursement of Taxes and Fees on Cost Reimbursement Contracts</i>	<p><i>Normally, all taxes and fees paid by the contractor are fully reimbursable under the contract.</i></p> <p>Typically, the contractor will pay sales taxes, labor taxes, and many other taxes to government agencies. These are routine costs associated with the business and will be reimbursable. It is extremely rare that the contractor will be considered to be <i>an agent of the US Government</i> and therefore be tax-exempt. However, there is some State to State variation in the taxes assessed on government contractors so the local policy should be checked in the State where the work is being performed.</p>
<i>Reimbursement of License Fees and Other Fees Imposed by Government Agencies on Cost Reimbursement Contracts</i>	<p><i>Business Fees and Licenses are Normally Fully Reimbursable.</i></p> <p>The contractor will not be exempt from normal business fees, license fees, permit fees, etc., by virtue of holding a cost reimbursement contract. There may also be costs for individual operating licenses and these are reimbursable if not required of the individual as a condition of employment.</p>
<i>Reimbursement of Permit Review Costs/Fees from Regulatory Agencies</i>	<i>Permit Review Fees are Reimbursable.</i>
<i>Reimbursement of Fines and Penalties on a Cost Reimbursement Contract.</i>	<i>Fines and penalties incurred by the contractor, even in the performance of contract business, are not reimbursable.</i>

CONTRACT PAYMENTS

CONCERNS	BEST PRACTICES
<i>Methods of payment processing for cost reimbursement contracts</i>	<p><i>Public Voucher Form 1034 and 1035</i></p> <p>The means of payment on a cost reimbursement contract is the Public Voucher, Form 1034 and 1035. These forms are to be prepared by the prime contractor, then submitted to the office designated by the government. The government should require the contractor to submit sufficient back-up information for a reviewer to determine that all costs are allowable.</p>
<i>Processing the Public Voucher upon receipt by the government</i>	<p><i>Establish a standard operational procedure within the government management office and at the cognizant audit office.</i></p> <p>a. Normally, the government office responsible for contract management will make a preliminary review of the Public Voucher to assure that it is properly presented and that it is accompanied by adequate back-up information. Within a short period (1-3 days), it is forwarded to the cognizant audit office. However, in some situations, contractors are directed to submit the Public Voucher directly to the audit office with a copy to the management office. In this case, any questioned costs are deducted from the next voucher until resolved. Once the audit office has approved the voucher, it becomes payable. At the time of voucher processing, the audit office normally conducts little or no review and the voucher is approved subject to final audit. The Prompt Payment Act (PPA) applies to cost-reimbursement contracts, but interest penalty payments are not made to the contractor as the result of delayed interim payments as these are considered “contract financing payments” as discussed in FAR 32.902 and 32.907-2. Although interest penalties for late payments do not apply, DFARS 232.906 establishes DOD policy to make contract financing payments as quickly as possible. This is reiterated by DCAA, in their Contract Audit Manual (Vol. 1, 6-1007), where they acknowledge contractors are generally dependent upon prompt receipt of interim payments under cost-reimbursement contracts to maintain a satisfactory financial position. To satisfy this requirement, the referenced DFARS subpart requires the contracting officer to insert the standard due dates of 7 days for progress payments and 14 days for interim payments on cost type contracts in the Prompt Payment clause.</p> <p>b. The government management office is responsible for review of contractor vouchers. At the beginning of a contract, it is suggested that a detailed review be conducted of every cost category. Future vouchers can be reviewed by sampling. The technique of sampling is consistent with the audit approach used by DCAA. For example, during one period, the government may carefully review labor costs, review travel costs in another period, etc. When the reviewer discovers a cost that appears to be unallowable, they should question the cost and have the Contractor</p>

CONCERNS	BEST PRACTICES
	remove the amount from the next voucher until the question is resolved. The reviewer should take caution not to disallow the cost. Only the Contracting Officer has the authority to disallow cost and then only after consulting with the cognizant auditor. To disallow a cost on a voucher and subsequent payment of the remainder may then render the rest of the voucher "audited and settled" and costs contained within, if they are re-occurring, may not be questioned in later vouchers. Hence, a statement that the voucher is still subject to later audit should accompany any disallowance of cost on a voucher.
<i>Assuring that all payments are correct</i>	<p><i>Payments on a cost reimbursement contract can be considered to be a long term iterative process - - - they are subject to later audit, correction, and reconciliation.</i></p> <p>Although efforts are made to assure all payments are correct, there will always be later adjustments based on audits and corrections. Required changes to past payments can be corrected on future vouchers with the correction being either additive or deductive.</p>
<i>Making changes or corrections to Public Vouchers</i>	<p><i>Make Payments on Time!</i></p> <p>If the government questions a costs on a voucher, the following actions may apply:</p> <ol style="list-style-type: none"> Remove the questioned cost, so the balance of the voucher can be paid on time, or Allow the cost to be paid on the present voucher. If the issues questioned are not promptly resolved, remove the cost from a subsequent voucher. Allowing questioned costs to be paid may be a means to build trust in the government-contractor relationship and it can be continued unless the practice is abused. Keep a running log on the questioned costs not only for historical reasons, but also to later help the auditor identify the categories of costs that were problem areas. If an agreement on questioned costs can not be reached, the advice of the auditor may be obtained, and the matter referred to the contracting officer (CO). The CO would normally issue a <i>Notice of Intent to Disallow Costs</i> to the contractor in order to receive comment in return. A Final Decision to deny cost is issued by the CO and not by the auditor. However, if the audit office strongly questions a cost, indicating it is unallowable or not allocable, the CO would normally accept the recommendation of the auditor. A decision on the reasonableness of costs rests with the CO.
<i>Providing timely payments to contractors</i>	<p><i>It is incumbent upon the government to expedite payments on cost reimbursement contracts.</i></p> <p>The contractor must first pay the bills represented within the Public Voucher before asking for reimbursement. Prompt payments (reimbursement) eliminates the</p>

CONCERNS	BEST PRACTICES
	<p>unnecessary accumulation of interest charges to the contractor. Interest charges are not reimbursable so delayed payments hurt the contractors financial position and create issues that detract from the achievement of primary contract goals, namely, performance of the work!</p> <p>Methods to expedite payments:</p> <ul style="list-style-type: none"> a. Have the contractor submit the Public Voucher to the government office and to the audit office concurrently. In this way, total review time will be reduced. Upon completion of review, the government management office delivers the approved voucher to the payment office. b.. Establish a Contract Management Procedure (CMP) that indicates the who, how, where, and when for a payment request prepared by the contractor. c. Establish a Standard Operational Procedure (SOP) within the government team which clearly sets forth the action, personal responsibilities, and schedule to be achieved on payment vouchers. d. Involve the audit agency and their procedures in the overall process and management plan. Furnish the audit agency with pre-printed labels, express mail capability, etc., if it helps achieve the schedule. e.. Implement “direct deposit” to the contractor’s account where possible. f. Track the vouchers through the system so that any problems can immediately be surfaced.
<p><i>Working with the Contractor s Accounting System and Cost Accounting Standards</i></p>	<p><i>Involve Audit Agencies</i></p> <p>Normally, the Contractor’s Accounting System and Disclosure Statement represent the way a contractor does business and these will not be changed to suit individual contracting agencies. Also, the Cost Accounting Standards are required and contractor compliance will typically be determined by the cognizant audit agency. Actions contemplated, or questions regarding, the Contractor’s Accounting System, Disclosure Statement, or Cost Accounting Standards should be thoroughly discussed with qualified auditors including the cognizant audit agency and Contracting Officer from the Defense Contract Management Center.</p> <p>For Additional information on payments, see Module VI(H) of TERC Training and Cost Reimbursement Contracting by John Cibinic and Ralph Nash, Chapter 7.</p>

PROPERTY MANAGEMENT ON COST REIMBURSEMENT CONTRACTS

CONCERNS	BEST PRACTICES
<i>Why is Property Management a Specific Issue on Cost Reimbursement Contracts?</i>	<i>Under a Cost Reimbursement Contract, all property purchased by the Contractor that is directly reimbursed by the government, becomes government property upon delivery. FAR 45.502 states that the contractor is responsible for property management on cost reimbursement contracts. That means that the Contractor must track, maintain, and properly store that which has been purchased. Consumables need not be tracked, but they should be controlled to prevent theft, misuse, or destruction.</i>
<i>Should we rent or buy?</i>	<i>The Contractor should make an analysis prior to purchase to determine what is most economical for the government. This make or buy analysis should be part of the purchasing system and should include life cycle costs including maintenance, storage, usage, and disposal.</i>
<i>Overall Management of Government Property by Contractor s - - - how is this to be done?</i>	<i>The contractor must develop a Property Management System. in accordance with FAR 45.502</i>
<i>Review and Approval of the Contractor s Property Management System</i>	<i>Involve those personnel that have been authorized and trained to perform the duties of the Property Administrator (Reference DFARS 245.7001). Some outside agencies can be helpful with property administration. Look for Property Administration Plans prepared by the contractor that have been accepted and approved on other projects.</i>
<i>The contractor s responsibility for loss or damage to government property</i>	<p><i>Implement Good Management Practices</i></p> <p><i>As a policy, the government does not insure its property nor are contractors generally authorized to obtain insurance on a reimbursable basis for most property. It is therefore very unlikely that the contractor will be required to pay for or replace lost or damaged government property. Reference FAR 45.103 and 45.504.</i></p> <p><i>Instead, good property management practices are intended to preclude most losses. The risk of loss is mitigated, not with insurance, but with good management! The contractor can be encouraged in this practice by an element on the award fee plan if it is a CPAF type contract.</i></p>

CONCERNS	BEST PRACTICES
	In rare cases, the Contracting Officer can hold the contractor responsible for the loss of property, but this is only through the willful misconduct of management. Maintaining an unacceptable property system could be considered willful misconduct.
Proper disposal of government property after use and at the completion of the contract.	<p><i>The Government Property Administrator will make the determination on the disposition of property. At the end of the project, the Contracting Officer should appoint a PLANT CLEARANCE OFFICER (PCO) for this purpose. Reference FAR 45.603.</i></p> <p>At the determination of the PCO, the normal methods, in this order, are utilized:</p> <ul style="list-style-type: none"> • Allow the contractor to retain the property for its cost, credited back to the project. • Turn property to the agency responsible for funding the project • Return property through the contractor to the supplier with a maximum of a 25% restocking charge. • Use within the Government through a screening process • Donate to eligible persons or agencies • Sale • Abandonment or Destruction
Overall guidance to government personnel on property management	<p>Refer to <i>DOD 4141.2-M Manual for the Performance of Contract Property Administration.</i></p> <p>For additional information see Cost <i>Reimbursement Contracting</i> by John Cibinic and Ralph Nash, Chapter 6.</p>
Training and qualifications of government personnel responsible for property issues on a cost-type contract	<p><i>The Contracting Officer Should Appoint a Government Property Administrator who is Trained and Qualified in Property Management</i></p> <p>Personnel authorized to manage government property (Government Property Administrator) should be authorized and trained; many personnel will have a <i>contracting warrant</i> which describes their responsibilities. Reference FAR 45.501</p>

CONTRACTOR INSURANCE COVERAGE S ON COST REIMBURSEMENT CONTRACTS

CONCERNS	BEST PRACTICES
<i>Establishing and Payment of Insurance Premium Costs on Cost Reimbursement Contracts</i>	<p><i>The government assumes the role of Self Insured and most general hazard insurance is eliminated.</i></p> <p>Because the government will pay all costs, including insurance premium costs, and will also assume all of the risk, the government normally takes the position of “self insured”, and thereby waives the necessity for many forms of insurance with the prime Contractor. This includes government property. See the next section for discussion of insurance on government property.</p>
<i>Insurance Coverage Required by Law</i>	<p><i>Insurance coverage required by law, such as workman s compensation coverage, and motor vehicle liability, will be utilized, with the cost reimbursed to the contractor as an allowable cost.</i></p> <p>Normal insurance coverage required by various laws will be utilized and cost will be reimbursed. The cost contract does not waive or over-ride any requirements of state or federal laws.</p>
<i>Insurance required by the contractor s business</i>	<p><i>General insurance coverage required by the total business will also be allowed.</i></p> <p>Most insurance policies provide for coverage of the total business against various forms of accidents and liabilities, with variable coverage added for each project. Normally, the base coverage policy is allowable but the variable policy premium for hazards on the specific contract are waived and the cost is not reimbursed. Elimination of insurance is a subject to be carefully discussed with the contractor and insurance underwriters - - - it is the intention of the government to assume the liability for loss, but it is not intended to create inordinate exposure for the contractor.</p>
<i>General Hazard Insurance for the Prime Contractor - Project Specific</i>	<p><i>General Comprehensive Hazard Insurance that is project specific is waived and costs may not be reimbursed.</i></p> <p>General comprehensive insurance provides coverage for losses on the project due to fire, storms, theft, and property damage other than those caused by a motor vehicle. The Government normally does not accept his portion of the insurance rider from the prime contractor and the costs are not reimbursable. It is important to note that the government assumes that superior management practices, such as the safety program, property control program, etc., will prevent any sizable losses - - - - therefore, these programs are vitally important to loss avoidance.</p>

CONCERNS	BEST PRACTICES
<i>Insurance for fixed-price subcontractors</i>	<p><i>Insurance on fixed-price subcontractors is allowable.</i></p> <p>In addition to the insurance required by law, fixed-price subcontractors will be allowed to have traditional comprehensive hazard coverage. The insurance premium will be included in their fixed price contract and will therefore be paid as a direct cost. The contractor administrator for the prime contractor should assure that the government is named as a covered party on all insurance policies.</p>

CLOSE-OUT OF TASK ORDERS AND COST REIMBURSEMENT CONTRACTS

CONCERNS	BEST PRACTICES
<i>Close-out of task orders and contracts</i>	Task orders should be closed out as they are completed. There will still be items to close out at the end of the contract. Assure funds are reserved for final contract closeout activities.
<i>Contract Close-out Plan</i>	<p><i>Have the contractor develop a close-out plan early in the contract. Set money aside for close-out activities as close-out is a reimbursable function.</i></p> <ul style="list-style-type: none"> a. The plan should include all activities by the contractor and the government needed to physically and financially complete the task order/contract. b. Develop a phased staffing plan for close-out based on the required activities. Estimate the time needed to complete each activity. c. Develop an estimated cost for close-out activities. Establish a separate WAD for close-out and incorporate into the schedule. d. Activities required for close-out include demobilization; close-out of all subcontracts and supply contracts; property disposal; preparation, audit, and negotiations of the final cost proposal and final payment by the government. <p>For additional information, see TERC Task Order Administration workshop, Module VI(H). [Refer to Appendix C - Training, of this <i>Best Practices Guide</i>].</p>
<i>Timelines of Close-out activity</i>	<p><i>Assure the schedule is realistic and includes required audit activities.</i></p> <ul style="list-style-type: none"> a. A cost reimbursement task order or contract can not be closed until the audit agency has completed the audit for both the direct costs and the overhead and equipment accounts for the last year in which work was performed. The date for the overhead audits can not be submitted until after the end of the fiscal year. Accordingly, the audit agency may not complete the final audit until 2 or more years after completion of the contract work. The close-out schedule should be based upon information on audit timing provided by the audit agency. b. The contracting officer can request the use of a “quick close out” procedure by the audit agency. The audit agency will determine if this action is reasonable, a decision based upon the history of the contractors overhead account and normal variations experienced within it. If approved, the final overhead costs are approved through <u>negotiation</u> rather than by audit, and a final settlement is made with the contractor. For quick close-out, refer to FAR 42-708.

APPENDIX A ACRONYMS

AA	Advance Agreement
AE.....	Architect Engineer
ACO.....	Administrative Contracting Officer
ACWP.....	Actual Cost of the Work Performed
BCWP.....	Budgeted Cost of the Work Performed
BCWS.....	Budgeted Cost of the Work Scheduled
CENAE.....	Corps of Engineers New England District
CLIN.....	Contract Line Item
CMP.....	Contract Management Procedure
CO	Contracting Officer
COR.....	Contracting Officer Representative
CPAF	Cost Plus Award Fee
CPFF.....	Cost Plus Fixed Fee
CPIF.....	Cost Plus Incentive Fee
CPM.....	Critical Path Method
CPPC	Cost Plus Percentage of Cost
CRCC	Cost Reimbursement Construction Contract
DCAA	Defense Contract Audit Agency
DCMC	Defense Contract Management Command
DFARS	Defense Federal Acquisition Regulation Supplement
DLA	Defense Logistics Agency
DOD.....	Department of Defense
DODI	Department of Defense Instruction
EPA.....	Environmental Protection Agency
ER.....	Engineering Regulation
EVMS	Earned Value Management System
FAR	Federal Acquisition Regulation
FDO	Fee Determination Official
FFP	Firm Fixed Price
FOB	Freight on Board
FP	Fixed Price
HTRW	Hazardous Toxic and Radiation Waste
LRC	Lowest Reasonable Cost
MOA.....	Memorandum of Agreement
PCO	Plant Clearance Officer
PM	Project Manager
QA	Quality Assurance
QC	Quality Control
RE.....	Resident Engineer
RFP.....	Request For Proposal
SOP.....	Standard Operating Procedure
T&M.....	Time and Materials

TERC..... Total Environmental Restoration Contract
WAD..... Work Authorization (Allocation) Document
WBS..... Work Breakdown System

APPENDIX B REFERENCES

Cost-Reimbursement Contracting by John Cibinic, Jr. and Ralph C. Nash, Published by The George Washington University, (202) 223-2770

Cost-Reimbursement Construction Contracts (CRCC) Guide, Published by the Army Corps of Engineers CE Training Management Directorate

A Guide to Cost-Reimbursement Contracting at the US Army Corps of Engineers New England Division, Published by the US Army Corps of Engineers New England Division

DM 415-1-6, Contract Management Cost Reimbursement, Published by Construction Division, Contract Administration Branch, US Army Corps of Engineers Omaha District

DM 415-1-8 Construction Cost-Reimbursement Fundamentals and Guidelines, Published by the US Army Corps of Engineers Omaha District

EP 715-1-5, Architect-Engineer Contracting Guide Hazardous, Toxic, Radioactive Waste (HTRW) Contracting, Published by Headquarters US Army Corps of Engineers

ER 1-1-11 Network Analysis System, Published by Headquarters US Army Corps of Engineers

ER 10-1-1 and ER 10-1-2 Guidance and Direction on Organization and Functions of the Army Corps of Engineers, Published by Headquarters US Army Corps of Engineers

ER 1180-1-6 Construction Quality Management, Published by Headquarters US Army Corps of Engineers

HTRW Remedial Action Cost-Reimbursement Workshop Guide, Published by the US Army Corps of Engineers Professional Development Support Center

Operating Plan for HTRW Resident Office, Published by the US Army Corps of Engineers Tulsa District

Suggested Construction Policy & Procedures (CPP) HTRW Cost-Reimbursement Type Contracts, Published by the US Army Corps of Engineers Baltimore District

Superfund Pocket Card, Published by Headquarters US Army Corps of Engineers Superfund Branch

TERC Administrative Guides (TAGs), Published by the US Army Corps of Engineers Omaha District

TERC Training Guide, Published by US Army Corps of Engineers HTRW Center of Expertise, Omaha District

US Army Corps of Engineers Contract Types, Published by the HTRW Center of Expertise US Army Corps of Engineers Omaha District.

APPENDIX C

TRAINING

The following is a list of established training classes for cost-reimbursement contracts. In addition to this list, organizations such as Federal Publications, National Contract Management Association (NCMA), and others provide seminars on specific topics contained in this guide.

Cost-Reimbursement Construction Contracts (CRCC) - This is a 36 hour course that is held at different cities around the United States. It is presented by Headquarters US Army Corps of Engineers Professional Development Support Center located in Huntsville, AL. Contact Chief of Training and Operations Division at (256) 895-7426 for further information.

HTRW Remedial Action Cost-Reimbursement Workshop - This is a 28-hour workshop which reviews cost contracting principals and emphasizes hands on procedures for management of HTRW task order type contracts. It is presented by Headquarters US Army Corps of Engineers Professional Development Support Center located in Huntsville, AL. Contact Chief of Training and Operations Division at (256) 895-7426 for further information.

Total Environmental Restoration Contracts (TERC) The Planning, Award, and Administration of Task Orders Workshop - This 28-hour workshop provides guidance on administration of the cost-reimbursable task order TERC contracts. It is presented by Headquarters US Army Corps of Engineers Professional Development Support Center located in Huntsville, AL. Contact Chief of Training and Operations Division at (256) 895-7426 for further information.

Cost Reimbursement Contracting - This course is presented by George Washington University. For information on this course and others, visit the web site <http://www.gwprofdev.com/gcp/> or call (202) 223-2770.

Additional Sources:

Training Web site: - <http://www.hnd.usace.army.mil/>

FAR Web site: - <http://www.arnet.gov/far/>